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BENARD C. RUSCHE NOMINATION

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF

BENARD C. RUSCHE TO BE DIRECTOR, OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, DEPARTMENT OF ENERGY

MAY 17, 1984

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BENARD C. RUSCHE NOMINATION

THURSDAY, MAY 17, 1984

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room SD-366, Dirksen Office Building, Hon. James A. McClure, chairman, presiding.

Present: Senators McClure and Hecht.

Also present: Charles A. Trabandt, chief counsel; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. The committee will come to order.

This morning, the committee will consider the nomination of Ben C. Rusche, who has been selected by the President to fill the newly created position of Director of the Office of Civilian Radioactive Waste Management within the Department of Energy.

Established by Public Law 97-425, the Nuclear Waste Policy Act of 1982, the position was created to ensure the effective implementation of the provisions of that act.

I am very pleased personally that the White House has selected such a fine candidate for this important responsibility.

Mr. Rusche is eminently qualified to head the Office of Civilian Radioactive Waste Management. He has distinguished himself as an effective manager and has demonstrated keen knowledge of the civilian nuclear industry in positions he has held both in the public and private sectors.

Presently serving as president of Management and Technical Resources, Inc., and a consultant to Energy Secretary Hodel, Mr. Rusche previously was Special Assistant to former Energy Secretary James Edwards, and a member of the Nuclear Regulatory Commission Task Group of the President's Private Sector Survey on Cost Control.

He was also the director of the South Carolina Energy Research Institute and assisted in overseeing the recovery effort at Three Mile Island as director of waste management, Three Mile Island recovery operations.

In addition, Mr. Rusche has been Director of the Office of Nuclear Reactor Regulation at the Nuclear Regulatory Commission, director of health and safety at E. I. DuPont De Nemours & Co.,

and has held various management positions at the Savannah River Laboratory.

Earlier this year when Secretary Hodel announced his reorganization plan for the Department of Energy, he indicated his intention to assign responsibility for the Uranium Enrichment Program to the Director of the Office of Civilian Radioactive Waste Management.

Some members of this committee and other interested Members of Congress who were involved in fashioning the Nuclear Waste Policy Act expressed serious concerns that such an assignment of other program responsibilities would detract from the Director's capability to focus maximum attention on the Nuclear Waste Program and implementation of the act.

At my request, Secretary Hodel, by letter of May 15, 1984, has informed the committee that Mr. Rusche, if confirmed, would not be assigned any other program responsibilities.

Copies of that letter have been distributed to members of the committee. And at this point in the record, without objection, I insert a copy of the letter.

[Secretary of Energy Hodel's letter follows:]

THE SECRETARY OF ENERGY
WASHINGTON, D.C. 20585

May 15, 1984

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

When I announced a Departmental reorganization on January 19 of this year, I also mentioned that I would propose moving the uranium enrichment function from the Assistant Secretary for Nuclear Energy to the Director of the Office of Civilian Radioactive Waste Management, when the President made a nomination for that position. We felt this would provide the Congress an opportunity to decide whether it thought this proposal to be worthwhile, and that this could be considered at the time of the confirmation hearing for the Director.

In the time since I announced those organizational changes, I have had occasion to hear from several members of Congress and a number of other people concerned with the issues of nuclear waste and uranium enrichment. In general, the advice has been that the management of those two functions not be merged. The feeling is that the nuclear waste issue is at a critical stage in its development and that the complexity of the uranium enrichment issue would unduly encumber the Director of the Office of Civilian Radioactive Waste Management. Therefore, I have determined not to assign the additional management responsibilities of uranium enrichment to the Director of Civilian Radioactive Waste Management.

It is my hope, Mr. Chairman, that you will inform the Committee that I appreciate the members taking their time to share their thoughts and concerns on these issues with me. I trust this decision not to proceed is evidence of my continuing desire to be responsive.

I was pleased to learn that you had set a hearing so promptly for Ben Rusche and hope he will be speedily confirmed.

With best wishes,

Sincerely,

Don Hodel

DONALD PAUL HODEL

cc:
Honorable J. Bennett Johnston
Ranking Minority Member

The CHAIRMAN. I want to commend the Secretary and Mr. Rusche for their willingness to resolve this issue at this time prior to the Senate's formal consideration of Mr. Rusche's nomination.

Mr. Rusche, I welcome you to the committee this morning, and I look forward to your statement at the appropriate time.

Senator Hecht, do you have any statement or comments at this time?

Senator HECHT. No. Thank you, Mr. Chairman.

The CHAIRMAN. Other members who desire may be heard later, or may have their statements inserted in the record.

It's my understanding that Senator Thurmond wanted to be here to introduce Mr. Rusche, but his responsibilities as President pro tempore of the Senate called for him to be on the Senate floor opening the Senate at this hour.

I think perhaps in order to expedite the hearing, we will go ahead with Mr. Rusche's statement, and when Senator Thurmond is able to get away from the floor, we will then interrupt and allow him to make his statement of introduction.

Mr. Rusche, would you step forward to the table.

As you know the rules of the committee which apply to all nominees require that they be sworn in connection with their testimony.

If you would please raise your right hand.

[Whereupon, Benard C. Rusche was duly sworn by the chairman.]

The CHAIRMAN. There are four questions that are addressed to witnesses before this committee who are nominated for positions in the administration that require our confirmation. I would like to ask these four questions of you.

Will you be available to appear before this committee and other congressional committees to present departmental positions and respond to issues of concern to the Congress?

Mr. RUSCHE. I will, Mr. Chairman.

The CHAIRMAN. Mr. Rusche, your informational statement has been submitted to the committee. However, it is required that this statement be made public, unless the committee decides that special circumstances justify an exception. Do you have any objection to the publication of your informational statement?

Mr. RUSCHE. I have no objection.

The CHAIRMAN. Are you aware of any personal holdings, investments, or interests that could constitute a conflict of interest, or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. RUSCHE. My investments, personal holdings, and other interests have been reviewed by both myself and the appropriate ethics counselor within the Federal Government.

I have been advised that because of my consultant client relationship with six electric utilities who are participating in the Waste Program, certain prohibitions are required pursuant to section 606(a) of the DOE Organization Act. Consequently, I will not participate in, or be kept informed of any proceeding other than a rulemaking proceeding which has a substantial effect on numerous

energy concerns with the six identified utilities for the prohibited period.

Furthermore, I have developed, with the concurrence of the Office of General Counsel of DOE, procedures which will be implemented to assure that I comply with the prohibitions.

The CHAIRMAN. Are you involved in, or do you have any assets held in blind trusts?

Mr. RUSCHE. No, sir.

The CHAIRMAN. Mr. Rusche, thank you very much. You may proceed to your statement. The entire statement will be placed in the record, and you may summarize or hit the highlights as you see fit.

STATEMENT OF BENARD C. RUSCHE, NOMINEE TO BE DIRECTOR, OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, DEPARTMENT OF ENERGY

Mr. RUSCHE. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I appreciate the opportunity to come before you as President Reagan's nominee for Director of the Office of Civilian Radioactive Waste Management in the Department of Energy.

The adoption by Congress of Public Law 97-425 and its signing into law by the President represented a major step in addressing one key aspect of America's energy future.

The opportunity to work closely with this committee and with Secretary Hodel was added encouragement for me to accept this nomination. I am enthusiastic about carrying out the policy and mandate of the act, giving it my full attention and energy.

After graduating from Tennessee Polytechnic University in 1953 with a degree in physics, I joined the Du Pont Co. in South Carolina where the Savannah River Plant was being designed and constructed.

Most of my work in the 30 years since then has been in the nuclear field, most of it in the private sector, ranging from safety research to environmental management.

My first venture in the Federal Government came in 1975 when the NRC appointed me its first Director of Nuclear Reactor Regulation. For 2 years, I managed——

The CHAIRMAN. Mr. Rusche, I wonder if we might interrupt your statement and welcome the President pro tempore, the distinguished senior Senator from South Carolina, and allow him to make his statement at this time.

Mr. RUSCHE. Yes, sir; I'm honored.

Good morning, Senator.

Senator THURMOND. Thank you.

STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. Thank you, Mr. Chairman.

The CHAIRMAN. We're honored to have you here with us this morning.

Senator THURMOND. That's very kind of you, Mr. Chairman. I appreciate it.

As soon as I opened the Senate, I came right over, but I'm glad you went ahead.

Mr. Chairman, I'm pleased to appear before you and the other members of the Committee on Energy and Natural Resources this morning in order to introduce Mr. Ben Rusche, the President's nominee for the Director of the Office of Civilian Radioactive Waste Management in the Department of Energy.

Although a Mississippian by birth, Ben Rusche has spent a considerable portion of his adult life in South Carolina working on a wide range of energy programs and activities, with particular emphasis on nuclear energy and radioactive waste management.

Mr. Rusche has extensive nuclear energy-related management experience, both as a Government employee, as a consultant to State and Federal agencies, and in the private sector.

He has been frequently called upon by myself and by my staff for advice on energy issues, and I have always found his counsel to be well informed, reasonable, and responsible.

Others in government and in the private sector have also regularly sought his opinions and assistance, including former Secretary of Energy and South Carolina Governor James B. Edwards, and current Secretary of Energy, Donald Hodel.

After obtaining a bachelor of science degree of physics from Tennessee Polytechnical University in 1953, Mr. Rusche began working for the Du Pont Co. at the Savannah River Plant in Aiken, SC, as a nuclear physicist.

From 1958 to 1960, he directed a group of engineers at Lockheed Aircraft Corp., with the task of designing a special nuclear reactor.

Thereafter, he returned to the Savannah River Plant to direct a group of physicists designing a new heavy water reactor for power production.

During the following 15 years at the Savannah River Plant, Mr. Rusche held several management positions of increasing responsibility and was named director of the environmental science section in 1972.

In 1975, he was selected to be the first Director of the Office of Nuclear Reactor Regulation for the Nuclear Regulatory Commission.

In 1978, Mr. Rusche assisted Governor Edwards in founding the South Carolina Energy Research Institute and later served as a senior advisor to Secretary Edwards at the Department of Energy.

Currently, Mr. Rusche is president of his consulting firm in Columbia, SC, known as Management and Technical Resources, whose clients include the present U.S. Secretary of Energy.

The position for which Mr. Rusche has been nominated is a relatively new position, created by the Nuclear Waste Policy Act of 1982.

I am pleased to have had an active role in helping to shape this act, which established a program and timetable for the permanent disposal of commercial high-level waste and spent fuel.

Mr. Chairman, you are to be commended for successfully guiding this landmark legislation through the Congress. I am sure that you will recall that the Senate followed your recommendation as floor manager and adopted several amendments I offered, with Senator Holling's cosponsorship, to ensure greater protection of States' in-

terests, and to prevent the use of away-from-reactor storage as permanent means of disposal.

Now, Mr. Chairman, to save time, I'm going to skip over this and let the whole statement go into the record.

The CHAIRMAN. The entire statement will be placed in the record.

[The prepared statement of Senator Strom Thurmond follows:]

STATEMENT BY SENATOR STROM THURMOND (R-S.C.) BEFORE THE COMMITTEE ON ENERGY AND NATURAL RESOURCES REFERENCE THE NOMINATION OF MR. BEN RUSCHE AS DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT IN THE DEPARTMENT OF ENERGY, DIRKSEN BUILDING ROOM 366, MAY 17, 1984, 10:00 A.M.

MR. CHAIRMAN:

I AM PLEASED TO APPEAR BEFORE YOU AND THE OTHER MEMBERS OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES THIS MORNING IN ORDER TO INTRODUCE MR. BEN RUSCHE, THE PRESIDENT'S NOMINEE FOR THE POSITION OF DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT IN THE DEPARTMENT OF ENERGY.

ALTHOUGH A MISSISSIPPIAN BY BIRTH, BEN RUSCHE HAS SPENT A CONSIDERABLE PORTION OF HIS ADULT LIFE IN SOUTH CAROLINA WORKING ON A WIDE RANGE OF ENERGY PROGRAMS AND ACTIVITIES, WITH PARTICULAR EMPHASIS ON NUCLEAR ENERGY AND RADIOACTIVE WASTE MANAGEMENT. MR. RUSCHE HAS EXTENSIVE NUCLEAR ENERGY-RELATED MANAGEMENT EXPERIENCE, BOTH AS A GOVERNMENT EMPLOYEE, AS A CONSULTANT TO STATE AND FEDERAL GOVERNMENT AGENCIES, AND IN THE PRIVATE SECTOR. HE HAS BEEN FREQUENTLY CALLED UPON BY MYSELF AND BY MY STAFF FOR ADVICE ON ENERGY ISSUES, AND I HAVE ALWAYS FOUND HIS COUNSEL TO BE WELL-INFORMED, REASONABLE, AND RESPONSIBLE. OTHERS IN GOVERNMENT AND IN THE PRIVATE SECTOR HAVE ALSO REGULARLY SOUGHT HIS OPINIONS AND ASSISTANCE, INCLUDING FORMER SECRETARY OF ENERGY AND SOUTH CAROLINA GOVERNOR JAMES B. EDWARDS, AND CURRENT SECRETARY OF ENERGY, DONALD HODEL.

AFTER OBTAINING A BACHELOR OF SCIENCE DEGREE IN PHYSICS FROM TENNESSEE POLYTECHNICAL UNIVERSITY IN 1953, MR. RUSCHE BEGAN WORKING FOR THE DUPONT COMPANY AT THE SAVANNAH RIVER PLANT IN AIKEN, SOUTH CAROLINA AS A NUCLEAR PHYSICIST. FROM 1958 TO 1960, HE DIRECTED A GROUP OF ENGINEERS AT LOCKHEED AIRCRAFT CORPORATION, WITH THE TASK OF DESIGNING A SPECIAL NUCLEAR REACTOR.

THEREAFTER, HE RETURNED TO THE SAVANNAH RIVER PLANT TO DIRECT A GROUP OF PHYSICISTS-DESIGNING A NEW HEAVY WATER REACTOR FOR POWER PRODUCTION. DURING THE FOLLOWING 15 YEARS AT THE SAVANNAH RIVER PLANT, MR. RUSCHE HELD SEVERAL MANAGEMENT POSITIONS OF INCREASING RESPONSIBILITY AND WAS NAMED DIRECTOR OF THE ENVIRONMENTAL SCIENCE SECTION IN 1972. IN 1975 HE WAS SELECTED TO BE THE FIRST DIRECTOR OF THE OFFICE OF NUCLEAR REACTOR REGULATION FOR THE U.S. NUCLEAR REGULATORY COMMISSION.

IN 1978, MR. RUSCHE ASSISTED GOVERNOR EDWARDS IN FOUNDING THE SOUTH CAROLINA ENERGY RESEARCH INSTITUTE AND LATER SERVED AS A SENIOR ADVISOR TO SECRETARY EDWARDS AT THE DEPARTMENT OF ENERGY. CURRENTLY, MR. RUSCHE IS PRESIDENT OF HIS CONSULTING FIRM IN COLUMBIA, S.C. (MANAGEMENT AND TECHNICAL RESOURCES, INC.), WHOSE CLIENTS INCLUDE THE PRESENT U.S. SECRETARY OF ENERGY.

THE POSITION FOR WHICH MR. RUSCHE HAS BEEN NOMINATED IS A RELATIVELY NEW POSITION CREATED BY THE NUCLEAR WASTE POLICY ACT OF 1982. I AM PLEASED TO HAVE HAD AN ACTIVE ROLE IN HELPING TO SHAPE THIS ACT, WHICH ESTABLISHED A PROGRAM AND TIMETABLE FOR THE PERMANENT DISPOSAL OF COMMERCIAL HIGH-LEVEL WASTE AND SPENT FUEL. MR. CHAIRMAN, YOU ARE TO BE COMMENDED FOR SUCCESSFULLY GUIDING THIS LANDMARK LEGISLATION THROUG CONGRESS. I AM SURE YOU WILL RECALL THAT THE SENATE FOLLOWED YOUR RECOMMENDATION AS FLOOR MANAGER AND ADOPTED SEVERAL AMENDMENTS I OFFERED, WITH SENATOR HOLLINGS' COSPONSORSHIP, TO ENSURE GREATER PROTECTION OF STATES' INTERESTS, AND TO PREVENT THE USE OF AWAY-FROM-REACTOR STORAGE AS A PERMANENT MEANS OF DISPOSAL.

AS HEAD OF THIS OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, MR. RUSCHE WILL HAVE THE POLITICALLY DIFFICULT BUT NECESSARY TASK

OF HELPING TO SELECT THE BEST POSSIBLE MEANS AND SITE FOR THE SAFE, PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE FROM COMMERCIAL NUCLEAR REACTORS. IN MY JUDGEMENT, HE IS AN EXCELLENT CHOICE FOR THIS CHALLENGING ASSIGNMENT, AND I AM CONFIDENT HE WILL SERVE THE NATION WELL IN THIS POST.

MR. CHAIRMAN, AS YOU KNOW, AND AS MR. RUSCHE IS WELL AWARE, THE STATE OF SOUTH CAROLINA IS AFFECTED BY ALL TYPES OF NUCLEAR WASTE, WITH A MAJOR LOW-LEVEL BURIAL SITE AT BARNWELL; A NUMBER OF COMMERCIAL REACTORS WITH CONSIDERABLE SPENT FUEL IN TEMPORARY STORAGE ON-SITE; AND A LARGE VOLUME OF DEFENSE WASTE AT THE SAVANNAH RIVER PLANT. UNDERSTANDABLY, SOUTH CAROLINIANS ARE MOST CONCERNED THAT WE MOVE FORWARD EXPEDITIOUSLY WITH A COMPREHENSIVE SOLUTION TO THIS NATION'S NUCLEAR WASTE DISPOSAL PROBLEMS.

FORTUNATELY, WE HAVE IN PLACE THE FRAMEWORK FOR SUCH A COMPREHENSIVE SOLUTION. FIRST, WE HAVE THE 1980 LOW-LEVEL WASTE POLICY ACT AND THE REGIONAL COMPACTS AMONG STATES WHICH ARE IN THE PROCESS OF BEING DEVELOPED AND PRESENTED TO CONGRESS FOR APPROVAL. SECONDLY, CONGRESS HAS ENACTED THE 1982 NUCLEAR WASTE POLICY ACT, WHICH MR. RUSCHE, IF CONFIRMED AS WE CERTAINLY HOPE AND EXPECT, WILL BE DIRECTLY INVOLVED IN CONTINUING TO IMPLEMENT. THIRDLY, THE DEFENSE WASTE PROCESSING FACILITY IS UNDER CONSTRUCTION AT THE SAVANNAH RIVER PLANT. THIS KEY FACILITY WILL SOLIDIFY INTO GLASS LOGS THE LIQUID, HIGH-LEVEL DEFENSE WASTE PRIOR TO ITS REMOVAL FOR PERMANENT STORAGE. THUS WE ARE MOVING IN THE RIGHT DIRECTION, AND WE MUST CONTINUE TO DO WHATEVER IS NECESSARY TO SEE THAT THE JOB IS ACCOMPLISHED IN A PROMPT, RESPONSIBLE MANNER.

HAVING WORKED WITH MR. RUSCHE, I AM CONFIDENT THAT HE SHARES THESE CONCERNS FOR THE SAFE DISPOSAL OF NUCLEAR WASTE. I BELIEVE HIS COMBINATION OF TECHNICAL AND SCIENTIFIC KNOWLEDGE, COUPLED

WITH EXTENSIVE MANAGEMENT EXPERIENCE IN GOVERNMENT AND IN THE PRIVATE SECTOR, AND HIS SEASONED GOOD JUDGEMENT, WELL QUALIFY MR. RUSCHE FOR THE POSITION AS DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.

Senator THURMOND. I believe that Mr. Rusche's combination of technical and scientific knowledge, coupled with his extensive management experience in Government and in the private sector and his seasoned good judgment well qualify Mr. Rusche for the position as Director of the Office of Civilian Radioactive Waste Management.

I am pleased to heartily endorse him, Mr. Chairman, as I feel that he is extremely well qualified. As we say, he has had experience with the private sector, he's had experience in the government, State and Federal, and we think that the Secretary of Energy has selected a very able person to fill this position.

The CHAIRMAN. Senator Thurmond, if I were nominated for a position, I could not wish to have anyone better to introduce me to the committee considering my nomination than you. And I think Mr. Rusche is very lucky to have your support today.

Senator THURMOND. That's very kind of you, Mr. Chairman. I feel flattered by the remarks of such an able Senator and such an outstanding chairman.

The CHAIRMAN. Thank you very much, Senator Thurmond.

Senator THURMOND. Mr. Rusche, I now turn it over to you. Good luck to you.

Mr. RUSCHE. Thank you, Senator.

The CHAIRMAN. Thank you, Mr. Rusche.

Mr. RUSCHE. Mr. Chairman, I can't help but express my deep appreciation to Senator Thurmond and, as you said, one could hardly identify one who would be more honored than myself to have Senator Thurmond as his introducer.

Senator Thurmond has served South Carolina for many years in the U.S. Senate, and I'm pleased to know, as a young person from South Carolina, he's still going to be serving South Carolina for years to come. His youth has displayed itself in many ways. I am grateful that he would come this morning and speak in my behalf.

The challenge in this job is putting in place in a timely manner the Federal components of a system for providing reasonable assurance for the long term, that the public and environment are adequately protected against the potential hazards from high-level radioactive waste and spent fuel.

Moving ahead is a national urgency in my opinion, because high-level waste and spent fuel now exists in 27 States in our country, and will continue to grow.

As enunciated by the President in his October 1981 statement on nuclear power, a secure energy future for America depends in part on the ability to select from many options including nuclear power.

From the beginning of the atomic age, it has been a given that the Federal Government has the responsibility for eventual disposal of high-level radioactive wastes and spent fuel. However, the absence of specific arrangements for disposal of this material has been a substantial impediment to public acceptance of the use of nuclear power.

With the passage of the National Waste Policy Act of 1982, the course has been set and the process for making the necessary decisions laid out. We now can and must proceed.

Clearly, protection of the public and the environment is the primary consideration. Today, commercial spent fuel is stored in fuel

pools at reactors in 25 States. The NRC has held that such storage is safe for the life of the reactor, which is about 30 to 40 years; that is, for the short term.

Similarly, high-level wastes are stored in several forms in six States in a manner that has been judged acceptable for the short term.

The act establishes as public policy disposal of these wastes in a geologic repository as the anticipated long-term solution for America.

In planning and carrying out the numerous systematic elements of the program mandated by the act, judgments must be made against the backdrop that we are choosing between the status quo, that is, storage of substantial quantities of such wastes on an acceptable short-term basis in many States, and a more secure, high-confidence system for the long-term future; namely, geologic disposal.

The desire for perfection, which we all seek, must be balanced against the potential consequences of indefinite continuation of the status quo.

This balance has been drawn by the act in specifying target dates for acceptance of waste and in establishing appropriate procedures for considering the interests of States, affected Indian tribes, and the public in deciding on sites and carrying out the programs. I am committed to carrying our the provisions of the act, and enthusiastic about proceeding, although I have no illusion about the ease of making such decisions as are required. Nonetheless, these decisions must be made.

Several key points stand out that I will summarize quite briefly.

First, the several elements of the program need to be brought into a common framework to avoid duplication and fiscal inefficiency; second, an integrated program utilizing both geologic and MRS repositories should be considered as the best way to achieve both intermediate and long-term goals in a timely fashion; third, discussions with States, affected Indian tribes, and other interested parties and the public must be carried out vigorously, openly, and fairly to assure that the highest possible confidence can be attached to decisions made. I commit myself to active personal involvement in these activities on a regular basis; fourth, the program must be managed like a business. Ratepayers and utilities have a right to demand this. Bottom line results are the measure of performance, not cash flow. Rigorous procedures must be in place to assure that fiduciary responsibility and accountability are exercised and demonstrable; and fifth, close working relationships with other Federal agencies will be maintained, especially with NRC, EPA, and DOT.

I look forward to working with Secretary Hodel and the competent staff already working on waste management in DOE. In conversations with the Secretary on my role and function in the Department, we have agreed that the directorship of the Office of Civilian Radioactive Waste Management will be my primary function. Also, I will move vigorously to further strengthen the staff and to tighten the organization and improve communications throughout the system.

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I conclude my statement by expressing appreciation to the President and Secretary Hodel for their confidence in me. I pledge my best effort to you on this committee, the Environment and Public Works Committee of the Senate, and the companion committees in the House involved in the construction and implementation of the act as we work together to carry out its provisions.

Indeed, you have reserved for yourselves what may well be the final test of this country's resolve to get on with disposal of radioactive wastes—the final resolution of issues with States and affected Indian tribes if needed.

I am pleased to have the opportunity to work with you in this important area. We must continue the progress so this issue can be removed as an impediment and nuclear power can be considered on its merits.

This concludes my brief statement, Mr. Chairman. I welcome your continued interest, participation, and hopefully, support in the program.

[The prepared statement of Mr. Rusche follows:]

STATEMENT OF

BENARD C. RUSCHE

NOMINEE TO BE THE

DIRECTOR, OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

U.S. DEPARTMENT OF ENERGY

MAY 17, 1984

Mr. Chairman and Members of the Committee, I appreciate the opportunity to come before you as President Reagan's nominee for Director of the Office of Civilian Radioactive Waste Management in the Department of Energy, a position established by Public Law 97-425, "The Nuclear Waste Policy Act of 1982." The adoption by Congress of P.L. 97-425 and its signing into law by the President represented a major step in addressing one key aspect of America's energy future. The opportunity to work closely with this Committee and with Secretary Hodel was added encouragement for me to accept this nomination. I am enthusiastic about carrying out the policy and mandate of the Act, giving it my full attention and energy.

My background of over 30 years in the nuclear field, most of it in the private sector, ranges from basic nuclear physics research to management of industrial, technical, policy, and regulatory activities. After graduating from Tennessee Polytechnic University in 1953 with a degree in physics, I joined the DuPont Company in South Carolina where the Savannah River Plant was being designed and constructed.

I started in basic experimental reactor physics involved in the design of production reactors for safe, efficient materials production. Safety is mentioned first as the most important element to be met in my work. It remains the highest priority for me, personally, in this endeavor.

My DuPont experience led from research to management of technical activities. In 1967, I became manager of the Experimental Physics Division and in 1970 began and subsequently managed the Environmental Sciences program at the site.

In 1975, the newly formed Nuclear Regulatory Commission invited me to become its first Director of Nuclear Reactor Regulation. I accepted, and for two years managed the NRC's program to assure that the public and the environment were adequately protected in the commercial use of nuclear power.

I returned to DuPont in 1978, as its first Corporate Director for Health and Safety. In this staff position, I focused my attention on assuring that both the public and employees were adequately protected in the manufacture, distribution, and use of chemical products made by DuPont.

After a year in this position, I accepted the invitation of a group of South Carolina business and government leaders to form a private, not-for-profit, Energy Research Institute in South Carolina. During this period, I worked with then Governor Edwards in his efforts through the National Governors Association to improve management of Low Level Radioactive Waste. About a year after the Institute was formed, I spent about 4 months on the TMI-2 site full time and another year in a major, but part-time, role assisting along with many others, in the early recovery activities.

In 1981 Energy Secretary Dr. James B. Edwards, appointed me his Special Assistant for Policy and Programs. I served Secretary Edwards in addressing technical and policy issues within DOE.

Since leaving the Department of Energy in July of 1982, I have been an officer

of Management Analysis Company of San Diego, providing executive management consulting services to energy and communications companies. My primary activities have been with electric utilities in the nuclear industry. I have also served as a consultant to Secretary Hodel on nuclear issues during this period. In September of 1983, I formed my own consulting firm, Management and Technical Resources, Inc., to continue these activities on a more personal basis.

The position to which I have been nominated broadens my involvement in the country's nuclear program. Some would say it may present the most challenging opportunity yet for balancing management, technical, political, and social concerns and priorities. I welcome the opportunity to apply my experience to this task. But success in this venture will require more than experience. It will require commitment to the purpose and spirit of the Act. It will require patience and dedication to assure that the legitimate interests of States and affected Indian tribes, the industry, and indeed, all Americans, are given full and fair consideration in carrying out the program.

The challenge in this job is putting in place, in a timely manner, the Federal components of a system for providing reasonable assurance, for the long-term, that the public and environment are adequately protected against the potential hazards from high level radioactive waste and spent fuel.

Moving ahead is a matter of national urgency because:

1. High-level radioactive waste and spent fuel now exists in 27 states of our country and will continue to grow.

2. As enunciated by the President in his October 1981 statement on nuclear power, a secure energy future for America depends, in part, on the ability to select from many options including nuclear power. From the beginning of the Atomic Age, it has been a given that the Federal Government has the responsibility for eventual disposal of high level radioactive wastes and spent fuel. However, the absence of specific arrangements for disposal of this material has been a substantial impediment to public acceptance of the use of nuclear energy. With the passage of the National Waste Policy Act of 1982, the course has been set and the process for making the necessary decisions laid out. We now can and must proceed.

Clearly, protection of the public and the environment is the central consideration. Today, commercial spent fuel is stored in fuel pools at reactors in 25 states. The NRC has held that such storage is safe for the life of the reactor, about 30 to 40 years, i.e. for the short term. Similarly, high level radioactive wastes are stored in several forms in 6 states in a manner that has been judged acceptable for the short term.

The NWPA establishes as public policy disposal of these wastes in a geologic respository as the anticipated long-term solution for America. America is not alone in selecting geologic disposal as the best long-term mode for the future. Canada, Belgium, West Germany, Switzerland, and Sweden have made a similar judgment. In planning and carrying out the numerous systematic elements of the program mandated by the Act, judgments must be made against the backdrop that we are choosing between the status quo, i.e. storage of substantial quantities of

such wastes on an acceptable short-term basis in many states; and a more secure, high-confidence system for the long-term future--geologic disposal.

The desire for perfection, which we all seek, must be balanced against the potential consequences of indefinite continuation of the status quo. This balance has been drawn by the Act in specifying target dates for acceptance of waste and in establishing appropriate procedures for considering the interests of States, affected Indian tribes, and the public in deciding on sites and carrying out the programs. I am committed to carrying out the provisions of the Act.

I am enthusiastic about proceeding, although I have no illusion about the ease of making key decisions. Nonetheless, these decisions must be made!

In my mind, several key points stand out as important.

1. The several elements of the program need to be brought into a common framework to avoid duplication and fiscal inefficiency. These are repository design and development, monitored retrievable storage design and development, packaging and preparation of fuel or waste, shipping and interim storage, transportation and handling. Standardization should be the approach where possible rather than countless custom designs.

2. An integrated program utilizing both geologic and MRS repositories should be considered as the best way to achieve both intermediate and

long-term goals in a timely fashion. Both MRS and repositories will probably be needed as complementary elements in the integrated system.

3. Discussions with States, affected Indian tribes, and other interested parties and the public must be carried out vigorously, openly and fairly to assure that the highest possible confidence can be attached to decisions made. I commit myself to active personal involvement on a regular basis.

4. The program must be managed like a business. Ratepayers and utilities have a right to demand this. Bottom line results are the measure of performance, not cash flow. Rigorous procedures must be in place to assure that fiduciary responsibility and accountability are exercised and demonstrable.

5. Close working relationships with other Federal agencies will be maintained, especially with NRC, EPA, and DOT.

I look forward to working with Secretary Hodel and the competent staff already working on waste management in the Department of Energy. In conversations with the Secretary on my role and function in the Department, we have agreed that the Directorship of the OCRWM will be my primary function. Also, I will move vigorously to further strengthen the staff and to tighten the organization and improve communications throughout the system.

I conclude my statement by expressing appreciation to the President and Secretary Hodel for their confidence in me. I pledge my best effort to you on this Committee, the Environmental and Public Works Committee of the Senate and the companion Committees in the House involved in the construction and implementation of the Act as we work together to carry out its mandate. Indeed, you have reserved for yourselves what may well be the final test of this country's resolve to get on with disposal of radioactive wastes--the final resolution of issues with States and affected Indian tribes if needed. I am pleased to have the opportunity to work with you in this important area. We must continue the progress so this issue can be removed as an impediment and nuclear power can be considered on its merits.

This concludes my statement, Mr. Chairman. I welcome your continued interest, participation and support in the program.

The CHAIRMAN. Thank you very much, Mr. Rusche.

Both Senator Thurmond and you have noted the importance of the passage of the act. And I certainly want to underscore my own feeling that the act is of vital importance to the Nation.

There are two things that perhaps are worthy of noting at this time; one, is the fact that we did set up some timetables in that act, and we knew that they would be hard to reach. The passage of time since the enactment of the act has indicated that those timetables may be more difficult now simply because we're not really on the time schedule that we had hoped to be on. Is that correct, would that be your view?

Mr. RUSCHE. Mr. Chairman, as I have reviewed very briefly the mission plan which was issued 1 week or 10 days ago, I believe the folks in the Department have outlined a number of possibilities, and there is a path through that array of possibilities which would be on the schedule.

They assume fairly optimistic results in a number of activities that are required. So in one sense I think you could say it is possible to meet that schedule for a repository in 1998. On the other hand, there are many places between now and then in which expectations might not be realized.

I think it's important to strive for that schedule, but it's also of ultimate importance that we have a quality and acceptable facility.

The CHAIRMAN. Well, I'm certain that if we keep the schedule uppermost in mind and try to bend every other consideration of the schedule, we might be making haste foolishly. The other side of that is, there is urgency in getting the repository in place.

Mr. RUSCHE. I fully agree with you, and that was my two-part answer; the quality must be there for the confidence to be there. I think the time was selected in a—I wouldn't say fully arbitrary manner, but it is not specifically tied to a set of events in which we are approaching some kind of crisis at that moment.

I think we should strive for it, and I would dedicate myself to that, but I would not compromise quality and assurance that people have an opportunity to participate.

The CHAIRMAN. Well, there were two things that pushed us toward a timetable; one, is the public confidence in the industry and the operation of nuclear powerplants, both those in existence at that time and those that might be licensed to operate after the passage of the act. The second was a feeling of urgency with respect to away-from-reactor storage, the need to have some means to meet the requirements of operating utilities and operating plants. That still remains a challenge, but perhaps one in a different perspective than we had at the time the act was passed.

Would that be a fair comment?

Mr. RUSCHE. I think that I would agree with you. I think that utilities have assumed an additional measure of responsibility and action in taking care of their own storage needs.

There yet may occur a circumstance in which a situation of sufficient importance arises to justify Federal action, and the act provides that, in my opinion, in a responsible manner.

The CHAIRMAN. Senator Thurmond mentioned in his statement the amendments that were adopted on the floor that required, or strengthened the requirement for State-Federal cooperation. That

may be one of the most severe challenges that you have, and you will need all the skills of an experienced diplomat, all the wisdom of Solomon, and all of the prescience of Jimmy the Greek in order to achieve that, I believe.

Mr. RUSCHE. And I think then I would want to have a prayer meeting as well. [Laughter.]

The CHAIRMAN. Yes; I suspect you will have more than one. And I wish you luck in that. But, I do believe that the success of the program will, in large part, hinge upon our ability to cooperate fully with the States so that they can particpate fully in the program and be fully supportive of the program.

Mr. RUSCHE. I couldn't agree more. In both my abbreviated and full statement, I obviously hope to be involved—plan to be involved with every element of the program. But because I thought it of sufficient importance, I committed myself to personal involvement on a regular basis in that activity of interaction with both States, the tribes, and so forth.

The CHAIRMAN. I did note with some concern, although I don't plan to be here in 1998—Strom Thurmond may be [laughter]—I'm not sure that I will. That sometime between now and then, the ultimate—this arbiter of State-Federal disputes, according to the legislation, is this committee. We just hope that this committee and this Congress don't have to do that.

Mr. RUSCHE. I hope that my performance and those of my colleagues and in the States and the rest of the country will make it such that that doesn't have to be done, and that's my objective.

The CHAIRMAN. It should be our objective. That's a fail-safe mechanism, but it's not the procedure of design, nor of desire.

Mr. RUSCHE. No, sir; and certainly, I do not intend to rely on it as a course of first choice, but only as a last choice.

Mr. CHAIRMAN. One final question, Mr. Rusche. On page 6 of your statement in the paragraph numbered 4, you note the fiduciary responsibility and accountability to ratepayers and utilities who are funding the waste program. And, of course, that is a central part of the act. It provided its own funding. It provided that the ratepayers would, in their rates, provide the money to dispose of the radioactive waste materials. And, therefore, since there is a constant flow of money coming in, there will be, and is, the responsibility to manage that on behalf of the ratepayers and the utilities, who collect and transmit that fund, that amount of money.

As you know, Senator Johnston and I have requested GAO on behalf of the committee to make quarterly reports to the committee about the program.

We would like to have your assurance to this committee of your full cooperation with GAO in that task.

Mr. RUSCHE. Mr. Chairman, I am aware of that request you have made and the intent to move in that direction. I can assure you that I will cooperate fully, and I believe that such a cooperative venture started at this time will give us all assurance that we're honoring our obligations throughout the years ahead. I will fully cooperate.

The CHAIRMAN. One of the features of that cooperation must necessarily be that accounting procedures and auditing procedures with respect to that fund will conform to the needs of GAO in

making those reports, and I hope that you can give the committee your assurance that you can work with GAO to develop those procedures, so that the transmission of information from you to GAO, and from GAO to us may be very smooth and without any pitfalls or difficulties.

Mr. RUSCHE. I believe it essential, and I certainly will cooperate. I would like to add that from my experience in the private sector, the importance of auditing and having auditable records is obviously of great importance, but the key to having such a system that is effective is starting out with a system that is in fact auditable. And I hope to work very early on with the GAO and with the auditing and accounting firms that we have involved to assure that from the beginning we have both the system as well as the cooperation to use that system.

The CHAIRMAN. Thank you very much.

Senator Hecht.

Senator HECHT. Thank you very much, Mr. Chairman.

It's nice to know you, Mr. Rusche. I'm very impressed by your background, and happy you are being considered for this important position.

I'm from the State of Nevada and, as you know, we have more than just a passing interest in the nuclear waste disposal areas.

Mr. RUSCHE. Yes, sir.

Senator HECHT. I have a lot of questions of a technical nature which different people in the State have submitted to me, and from the Governor's office, which I am going to submit to you for the record, and give you a chance to analyze them and give us answers.

I don't think it's fair to ask you these technical questions right now until you have had such a chance. I remember the day after I became the Senator, the news people asked me three questions: How am I going to end the war in Afghanistan? How was I going to solve the Middle East problem? How was I going to bring down interest rates? So, after that, I have been very careful not to ask these questions until you have had a chance.

Mr. RUSCHE. You're very thoughtful, sir.

Senator HECHT. There are two questions I would like to get your views on.

What are your views on the commingling of defense and commercial high-level waste, and should defense waste be subject to the same licensing and oversight as commercial waste?

Mr. RUSCHE. Perhaps I can answer the second part first and then go forward.

I believe in the Energy Reorganization Act of 1974, waste that is literally described as high-level waste, is made subject to licensing rules. So, in that sense, I think the answer is they should be subject to the rules of NRC and other applicable rules when they are put in disposal mode.

Second—now, to answer the first part, I think that under the Nuclear Waste Policy Act, there is required a study by the Department and a recommendation by the Secretary and the President as to whether such waste should be commingled. I believe that study is underway. I have not seen the results, although I understand that some elements of it have been published. It is due the end of the year, if I'm not mistaken.

There are certainly technical issues that will be discussed. And I think, at first glance, the technical issues do not provide great problems. There are other factors that need to be weighed, and I'm sure the folks will be weighing them.

I believe it would be best for me to reserve an answer finally, until we had those studies in hand, but I certainly will be actively involved with it over the next several months.

Senator HECHT. One other question. Many States have been urging DOE to open and begin releasing information about transportation issues, such as routing and so forth.

To what degree will your office become more active in making this transportation data available as soon as possible?

Mr. RUSCHE. I'm not sure what their concern is. I'll guarantee I'll take a look at it. I hope in my statement that I convinced you that I do intend to work in a manner that is extremely open, and hope to be deeply involved personally. So, in a generic sense, I'll say I will do the very best I can, and I will know what they need, and if I can't do it, they will know why—and hopefully you would, too, and would agree.

Senator HECHT. Of course. And as I mentioned before, I look forward to working with you and your office, because we are very, very sensitive to this issue in the State, and so are, as I mentioned, the Governor's office, the attorney general and so forth.

Thank you very much.

Mr. RUSCHE. Thank you, sir.

The CHAIRMAN. Thank you, Senator Hecht.

I am informed that there may be questions on the part of other members of the committee. I don't know of any at this particular moment. Senator Johnston has indicated he might possibly have some questions.

We will keep the record open until the close of business on today for the submission of those questions and for their response in writing to the record.

Senator HECHT. Mr. Chairman, may we have more than 1 day on that, because I'll be getting in other questions from my State.

The CHAIRMAN. All right. At the close of business tomorrow. Would that be satisfactory?

Senator HECHT. That will be better. Thank you.

The CHAIRMAN. That will be fine. It is so ordered. And we will hope to have those responses for the record at the earliest possible time so we can proceed with the confirmation and approval of the nomination.[1]

Mr. Rusche, I think it also might be appropriate to note that your wife is in the hearing room today. We are very delighted to have her with us today.

Mr. RUSCHE. Thank you, Mr. Chairman. She's an indispensible part of this activity, I can assure you.

The CHAIRMAN. I don't doubt that at all.

Thank you very much, Mr. Rusche. There are no further questions at this time.

Mr. RUSCHE. Thank you, sir.

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[1] See appendix II.

The CHAIRMAN. We have another witness, Mr. David M. Berick, director of nuclear waste and safety project, Environmental Policy Institute.

Mr. Berick, your entire prepared statement will be placed in the record in full. I would invite you to summarize it or highlight it in whatever way you would desire at this point.

STATEMENT OF DAVID BERICK, ENVIRONMENTAL POLICY INSTITUTE

Mr. BERICK. Thank you, Mr. Chairman, I'll be glad to.

I want to thank you and members of the committee for the opportunity to testify this morning.

I think on all of our parts we recognize the commendable efforts of the two acting directors that have staffed this office, Bob Morgan and Mike Lawrence, who have done a commendable job under very difficult circumstances in trying to get a program that was already in gear and running to bend to the new requirements of the Waste Policy Act.

I think all of us recognize that there are some things lacking in terms of stability and continuity of the program that just couldn't be addressed until there was a permanent director.

So I think it's something that we have all been looking forward to that's long awaited. I guess I'm attempting to paraphrase Mo Udall's comments about this task, that it's taken a long time to find somebody smart enough and dedicated enough to serve in this capacity, and masochistic enough to take the job.

But we thought that it would be helpful to the committee this morning to not dwell on the characteristics of the nominee, but on the characteristics of that job.

We hope that both the committee and the nominee understand the uniqueness of this position, with its many first-of-a-kind responsibilities, not just developing and setting the first geologic repository, but also things like managing the nuclear waste fund which we believe is sort of a unique financial instrument for funding these kinds of activities.

And this committee, and you, yourself, Mr. Chairman, are to be commended for the foresight and leadership in establishing that fund. I think it's a significant part of the Waste Policy Act and one that, at this point, I think a lot of consensus has evolved around as being something that's central to the program and is important to maintain.

My testimony takes a page out of the draft mission plan quite literally, it's attached as an appendix at the end of the testimony, which describes five primary responsibilities of program management for the Office of Civilian Radioactive Waste Management.

Obviously there are a couple of others, like quality assurance, that are central to the role of the director of the program and the management of the program. But we felt that the five listed in the mission plan were important.

We added another one on defense waste. Those five are in compliance with the Nuclear Waste Policy Act and the contracts that the Department has signed with utilities; the recognition that this is a first-of-a-kind undertaking, both in terms of the technology and

in terms of some of the institutional requirements, in terms of dealing with States, and the financial end of it; in terms of dealing with the waste fund and managing that on a full-cost recovery basis over a very long period of time; fourth, it's a very, very large program. We're looking at $20 to $23 billion in fiscal year 1983 dollars. If you start to adjust that for inflation, we're looking at something that's upward of perhaps $100 billion when we get to the end of its life. And certainly we have, as I mentioned before, the unique institutional requirements in terms of the Federal-State relationships that were established in the Waste Policy Act.

The one that we have added deals with defense waste. We have been a little frustrated at the apparent inability on our part to get the Office of Civilian Radioactive Waste Management to recognize the full import of section VIII of the act which says that in 1 year—less than 1 year now, we may decide to commingle the waste. And I think that that kind of decision will have a significant impact on the program in terms of sorting out what kinds of repository capacity we're going to need, how we're going to get the cost of that defense program rolled into the waste fund without having the utilities and the ratepayers, through their front-end contribution, subsidizing that component.

So I think there are some very difficult problems to untangle. I have added that as a sixth responsibility.

The testimony describes some of the problems that we see in each of these areas. Most of the comments that I have made have been presented in testimony given earlier this year before the committee, and I'm not going to repeat them now.

I would just want to make two final points. One, is to reiterate our concern about the merging of the uranium enrichment functions. And we are gratified that the committee has taken the initiative of requesting that the Secretary clarify that he is no longer going to transfer those functions.

And last, I want to stress to the committee and to the nominee that if he is confirmed, we will pledge to work with him to implement the Nuclear Waste Policy Act in a constructive and forthright manner.

We believe that we have participated in most, if not all, of the Department's rulemakings and activities that have been conducted in implementing the Nuclear Waste Policy Act. We have submitted detailed comments on public drafts of their decision documents and policy documents. We have testified on Capitol Hill a number of times on this. We have participated during public testimony sessions at DOE's meetings, and at Nuclear Regulatory Commission meetings involving implementation of the Waste Policy Act, and we will continue to do so.

We think the Department has made a reasonable effort toward being open to outside criticism. The record is a little mixed. On the one hand, we have effort we think is very constructive in terms of the mission plan, where they submitted in December a preliminary draft, preceding the draft that was just announced this week, which we found to be a very good opportunity to get into the process and to exchange views, not just with the Department but with other parties, including the utilities and outside organizations, like

the Office of Technology Assessment, and try to work out the difficulties in implementing this most difficult act.

On the other hand, there are circumstances like the site guidelines, where it was not until I think a rather extraordinary move by the Nuclear Regulatory Commission in January to hold the public hearing and then to issue a conditional concurrence that the Department really took outside comments, and not just from environmental organizations but from States, Indian tribes that have a leg up on this process in the act seriously.

So, we think the record is mixed, but we think the Department has been making an effort. We hope that they will expand upon that effort. We're gratified by the comments made by Mr. Rusche, dedicating himself to keeping the doors open. We look forward to continuing this dialog with him, if he is confirmed.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Berick follows:]

87-366 O—84——3

ENVIRONMENTAL POLICY INSTITUTE

TESTIMONY OF DAVID BERICK, ENVIRONMENTAL POLICY INSTITUTE

BEFORE

THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

CONCERNING

THE NOMINATION OF BENARD RUSCHE TO BE DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

MAY 17, 1984

On behalf of the Environmental Policy Institute, I want to thank the Committee for the opportunity to testify on the nomination of Mr. Benard Rusche to the Director of the Department of Energy's Office of Civilian Radioactive Waste Management. Our testimony, today, is intended neither to support nor oppose that nomination. Our remarks are not aimed at the character of the nominee, but rather at the character of the job for which he is being considered. We hope that the testimony that follows concerning the duties of that position will assist the Committee in evaluating Mr. Rusche's qualifications for this position.

Section 304 of the Nuclear Waste Policy Act(NWPA) of 1982 established the Office of Civilian Radioactive Waste Management and required that it be headed by a Director confirmed by the Senate and reporting directly to the Secretary. Although two very able acting directors have managed the Office, the nomination of a permanent director some sixteen months after the Act was signed can certainly be described as long awaited. I think that parties on all sides of the nuclear waste issue, including environmentalists, industry, and the states, believe that improvements are needed in the management and stability of the

high-level waste program; improvements which may be achieved more easily with a permanent director.

The Director is charged, under Sec. 304(b) of the NWPA, with carrying out the various functions assigned to the Secretary by the Act. These functions are numerous and complex. Many, such as the management of the Nuclear Waste Fund, are unprecedented. Others, such as telling a governor that his or her state is being chosen to be a nuclear waste dump are contentious. It is our purpose here to elaborate on these responsibilities, as we perceive them, to assist the Committee in judging the nomination.

One of the responsibilities which we do <u>not</u> believe should be assigned to the Office or to the Director is "day-to-day oversight" of the uranium enrichment program as proposed by Secretary Hodel in January. The Secretary stated that this "realignment" of uranium enrichment management would become effective when a new director was confirmed to head the Office of Nuclear Waste Management. This is an inappropriate policy and we now understand that the Secretary has changed his mind on this part of the reorganization. We urge the Committee to confirm that enrichment management functions will not be transferred to the Director of the waste program.

To gain a fuller perspective of the functions of the Director, I wish to direct the Committee's attention to the recently released Draft Mission Plan for the Civilian Radioactive Waste Management Program; specifically to Section IV of the first volume. Section IV describes the Program Management aspects of the high-level waste program. It lists five major components(see

Appendix I for Plan text) to which I would add a sixth concerning the management of high-level waste from defense activities.

FUNCTIONS OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

The balance of the testimony will elaborate on these six tasks and draw some observations concerning the prospects for fulfilling them by Mr. Rusche or other appointee. These issues are central to the responsibilities of the Director and the Committee should have a clear understanding of where the nominee stands regarding them.

1) Compliance with the NWPA and Contracts with Generators--- Unlike other DOE programs, the high-level waste program is subject to a detailed statutory framework spelling out a step-by-step process for how it is to develop waste facilities. State and tribal officials, environmental and citizen organizations and the concerned public have closely monitored DOE's compliance with the Act and can be expected to continue to do so. The Act has created something of a "glass house" around the program offering it some shelter but privacy is not part of the design.

A principal issue facing the Department is the conflict between the procedures spelled out in the Act and deadlines for completing them including the 1998 target date for operation of the first repository and receipt of spent fuel. It is now apparent that DOE cannot fulfill many of the procedural requirements within the time periods designated by the Act. The Draft Mission Plan, for example, recognizes that the decision to recommend the final site for the first repository cannot be made until mid-1990; approximately three years after the NWPA deadline.

Many outstanding policy issues, interpretations of the Act,

and implementation decisions remain to made or resolved. For example, we take issue with the Department's current interpretation of its NEPA responsibilities under the Act and its view that it may accept liquid high-level waste for solidification by the Department. Solidification by the reprocessor has been a Federal policy since 1971 and we do not believe Congress intended to override that policy when it adopted the definition of "high-level nuclear waste" in the NWPA.

To its credit, the Department has been generally aware of these conflicts and the Mission Plan process has allowed for an examination of how the conflicting mandates of process and deadlines can reconciled. I would strongly urge that DOE's sensitivity to procedural safeguards and the expectations people have of DOE's compliance with those safeguards will be heightened even at the risk of compromising deadlines in the Act when that becomes necessary.

As for DOE's contracts with generators and owners of high-level waste, we believe that those contracts allow sufficient flexibility in DOE's acceptance of spent fuel to assure that repository safety and NWPA procedural requirements need not be compromised. In particular, Article II of the standard contract was specifically changed in the final version to clarify that transfer of title of waste was predicated on the operation of a repository. DOE also retained the full authority in the contracts to set the acceptance schedule for spent fuel.

2) Development of a Technically and Institutionally Controversial and Complex First-of-a-Kind Project--- Unlike other types

of nuclear projects, the performance of a high-level nuclear waste geologic repositories depends principally on the repository site and not on the engineered facility. This is the reverse of the approach historically taken toward both social and technical concerns about the safety and environmental protection in the development and licensing of nuclear powerplants.

Engineered components can enhance the overall "safety" or performance of the system, but wastes are expected to be contained, and exposure to future populations controlled, through geologic processes such as groundwater travel times. These factors can only be identified, analyzed and demonstrated to be satisfactory on a site-by-site basis through analytic methods and modeling. They cannot be synthesized.

As the National Academy of Sciences in its 1983 report on high-level waste("A Study of the Isolation System for Geologic Disposal of Radioactive Wastes") noted, there is not yet agreement on overall geologic performance criteria upon which to evaluate the suitability of repository sites. As is evident from the protracated discussion over the Department of Energy's site selection guidelines, there is still not agreement on how to screen and select sites against those performance criteria when they are available. There is certainly no agreement that the sites currently under investigation are adequate to meet the performance criteria and such a determination is many years away under the best of circumstances. According to the USGS, it may take as much as 10 years at some sites, like Hanford, to conduct the geologic tests necessary to evaluate their suitability.

Bluntly put, the ability to select sites and demonstrate that

natural geologic barriers will perform as expected is only as good, and as credible, as those carrying out the selection; in this case, the U.S. DOE and its contractors. These parties are naturally suspect in the sense that they are "promoters" of individual sites and of the high-level waste program overall. DOE's cause is not helped by the pervasive sense, fostered by the DOE itself, that the site selection decisions have already been made outside of the public siting process. For example, DOE is still working on siting guidelines for nominating sites while the Mission Plan and DOE budget documents clearly assume that two of the final three sites will be Nevada and Hanford. DOE should take a more conscientious approach to the site selection procedures required by the Act than it has to date.

3) Management of the Waste Fund on a Full-Cost Recovery Basis---The up-front financing system embodied in the nuclear waste fund is a unique and all important aspect of the waste program. If there is one part of the waste program upon which a clear consensus exists, it appears to be the combination of equity and long-range funding achieved by the NWPA provisions establishing the waste fund. Credit should be given to this Committee for its foresight in proposing the funding arrangement.

The consensus supporting the fund should not be taken for granted however. Credible management of the fund will be extremely difficult because of the uncertainty which surrounds key program elements, such as repository start-up dates and locations, or projecting the number of kilowatt/hours of nuclear generation. The present agreement that funding should be avail-

able to fulfill the multitude of program requirements, ranging from exploration activities to impact assistance, has yet to fully confront conflicts among the various demands for funding nor to experience the resistence of "contributors" for "unnecessary" expenditures. While there seems to be general agreement about the need for strong management and audit control over program costs, conflicts over where those controls should be directed and management of the fund are likely to increase.

Full-cost recovery is not an entirely unique idea to DOE nuclear programs. As the Committee is no doubt aware, DOE has been required since 1970 by Sec. 161 of the Atomic Energy Act to recover the costs to the Federal Government of its commercial enrichment services "...over a reasonable period of time." DOE has historically reviewed and adjusted its enrichment prices on an annual basis based upon a ten-year projection of costs.

The Department is currently in the process of renegotiating "full-recovery" enrichment contracts with utilities which would significantly lower the price of enrichment services over previous contracts. Much of the proposed savings comes from changes in the accounting methods to be used by DOE in assessing the "cost to the Government" including imputed interest from use of Federal funds, depreciation of enrichment facilities and the cost of government-owned uranium. A number of the changes being made in the Department's calculations of costs have been called into question by the General Accounting Office among others(see GAO/RCED-84-156, "Information on DOE's Costing and Pricing of Uranium Enrichment Services", April 25, 1984).

It is not our purpose here to discuss uranium enrichment

costs, but only to point out the experience and the difficulty of running a full-cost recovery program under DOE for nuclear services. In the case of the waste program, the costs and revenue stream are far less certain than from the enrichment program where there are decades of experience. The duration of the waste program over which the costs and revenues must be calculated is many times the ten year period used in the enrichment program. Finally, the requirements for funding imposed by the NWPA and under agreements with the states and Indian tribes have no parallel in the enrichment program. The management of the waste fund will certainly be more difficult and controversial than the uranium enrichment account. DOE must vigilantly demonstrate that its cost estimates are legitimate and financially conservative and that its revenue projections, fee level and collections are keeping pace with those costs.

4) Control of a Large Program Complicated by a Pre-Existing and Highly Decentralized Structure---In simple terms, the Office is responsible for imposing new statutory and management requirements on a $20 billion program critical elements of which were already in place at the time the Act was passed and the Office was created. Individual site investigations are the primary responsibility of regional operations offices and DOE's site choices for the first repository were already under investigation at the time . In most of these cases, such as Hanford and the Nevada Test Site, the nuclear waste activities at the individual sites comprise only a small component of the responsibilities, primarily national security activities, of the regional opera-

tions offices and DOE contractors for those sites.

As a result, site investigations, the most politically controversial aspect of the high-level waste program, often had the least accountability because of the difficulty of identifying which DOE office or personnel were making which decisions about which site activities. Some field operations, such as those at Hanford, have also become insulated by the security considerations surrounding the defense activities which are the principal function of the regional operations office.

In the past, DOE management exacerbated the difficulties of asserting control over this highly decentralized situation by conducting a "horse race" among the various sites. Operations offices and contractors were encouraged to push development of their respective sites to ensure their continued development and funding. At times this lead to progress at the expense of quality and credibility. The Hanford Site Characterization Report, for example, failed to identify significant uncertainties and flaws in the site in reaching a conclusion that the site was suitable for characterization(see DOE/RL 82-3 "Site Characterization Report for the Basalt Waste Isolation Project" November, 1982 and NUREG-0960 "Draft Site Characterization Analysis of the Site Characterization Report for the Basalt Waste Isolation Project" March, 1983).

To its credit, DOE management of the Office has moved toward asserting greater management control over the site selection activities, although field offices and contractors are still responsible for preparing decision documents such as the environmental assessments that are to be used to nominate sites. A

commitment to strong headquarters management control must continue, especially as the program enters the site nomination and characterization stage.

5) Responding to the Institutional Requirements Including Consultation and Cooperation with States and Indian Tribes---One of the central features of the NWPA is its inclusion of procedures to address the legitimate public concerns over the safety of nuclear waste disposal and the consequences a nuclear waste repository may have for a community, a state, a region, or an Indian tribe. The NWPA establishes a number of requirements for public hearings in the vicinity of potential repository sites, for documenting siting decisions, for reporting to states and to the Nuclear Regulatory Commission on siting activities, and for the active participation of states and Indian tribes in the siting process. These requirements were imposed in many cases because of the historical insensitivity of the Federal high-level nuclear waste program in conducting its investigations for repository sites beginning with Lyons, Kansas in the early 1970's and extending through the contradictory roles and assurances given to New Mexico concerning the WIPP site.

While it is often said by advocates for a more agressive waste program that the nuclear waste problem is not technological but only institutional, the record suggests that DOE is not very adept at solving the institutional problems. The current impasse between the DOE and the State of Utah is further evidence that even with the NWPA in place, differences in the interpretation of responsibilities and the tensions between potential repository

states and DOE will continue.

DOE must not only recognize its responsibility to fulfill the requirements of the NWPA concerning participation of the public and state and tribal officials, but also recognize that those are the minimum requirements if the program is to succeed.

To its credit, DOE has made an effort to allow for public participation in a number of instances beyond what is required by the Act. For example, it released a preliminary draft of the Mission Plan in December which provided an important opportunity for all parties to review and comment on the DOE program. DOE has also committed to the issuance of draft environmental assessments at the site nomination stage.

These commitments suggest that DOE has reached a turning point in its approach to its institutional relations, but there continue to be examples to the contrary such as DOE's failure to adequately address public and state comments on its site selection guidelines. It was only after the extraordinary intervention of the Nuclear Regulatory Commission that the Department moved to revise its guidelines to address the types of issues raised by outside comments.

6) Management of Defense Waste as Part of the Commercial Program---Section 8 of the NWPA requires the President to make a determination within two years of enactment as to whether or not high-level wastes generated by DOE's defense activities are placed into commercial waste repositories. This decision has not yet been made but preliminary indications, such as the Environmental Impact Statement scoping notice for management of high-level waste at Hanford, appear to support a decision to commingle

defense waste.

A decision to commingle defense wastes with commercial wastes will greatly expand the scope and complexity of the tasks of the Office of Civilian Radioactive Waste Management. The Office must become involved in a range of new issues including the compatibility of the various types of high-level wastes generated by the defense programs with the repository design, the scheduling of receipt and emplacement of defense wastes, the assurance of adequate repository capacity to accomodate both types of wastes, and the assessment of fees proportional to defense disposal requirements.

DOE already engenders a significant concern over its apparent conflict between its promotion of nuclear power technology and its responsibility to protect public health and safety and the environment when it comes to nuclear waste disposal. The appearance of such conflicts could be exaggerated by the additional responsibility for handling its "own" wastes especially if the final repository site is not at a DOE reservation. There is also a reluctance on the part of commercial waste generators to "subsidize" defense waste disposal through the one mil per kilowatt/hour fee. Finally, there may be conflicts concerning the ability of the repository to schedule receipt of both defense and commercial waste.

The Director of the Office of Civilian Radioactive Management must be able to demonstrate that defense program wastes are subject to the same level of financial burden and regulatory control as commercial wastes.

CONCLUSION

Mr. Rusche has experience in several nuclear energy-related areas that would be extremely relevent to the directorship of the Office of Civilian Radioactive Waste Management. He has experience at the regional DOE program level, with the DOE defense programs and with the NRC's regulatory program. This background could help the program deal with such contentious issues as incorporating defense wastes into the commercial program. Without intending to attribute any motives to Mr. Rusche whatsoever, one could view those same experiences as potential biases which might lead to special consideration for the defense program, for example. We hope that Mr. Rusche and the Committee will make clear their respective understandings of the Director's responsibilities so as to alleviate any such speculation which might hamper the credibility of the program.

It is our view that the Directorship of the Office of Civilian Radioactive Waste Management is a unique and difficult position. We pledge to work with Mr. Rusche, if he is confirmed, in an open and forthright manner to implement the NWPA.

We believe that the Department has embarked, through the Mission Plan process, on a constructive means for addressing policy and NWPA interpretation issues and such procedures should be expanded. We look forward to continuing this dialogue with the Department and the new Director of the Office of Civilian Radioactive Waste Management.

Thank you. This concludes my testimony.

IV. PROGRAM MANAGEMENT

Successful and cost effective execution of the civilian radioactive waste management program will require management at all levels and throughout the organization to pay particularly close attention to systematic planning and program control. The most notable characteristics of the program that affect planning and control are summarized below:

a. The program has a specific, predetermined objective as defined by the Act and the contracts between the Department and the owners and generators of radioactive waste materials;

b. The program is a complex undertaking given the first of a kind/controversial nature of both its technical and institutional components;

c. The program must operate on the basis of full cost recovery, i.e., it is to be self-supporting in that the fees paid by the owners and generators of the radioactive wastes handled by the program must pay for essentially all program activities;

d. Due to the size of the program and the pre-existing management structure of the Department, the program will be largely executed through a decentralized network of field offices and contractors, under the centralized coordination and direction of the Office of Civilian Radioactive Waste Management in Headquarters; and

e. While providing the basic framework within which program execution is possible, the institutional process that the program is required to follow (including the requirements for consultation with the affected States and Indian tribes) also establishes a complex environment in which program scheduling and management tasks must be carried out.

These characteristics set the civilian radioactive waste management program apart from most Federal activities and require a coordinated, program wide approach to problem resolution.

The CHAIRMAN. Thank you very much.

I have only a couple of questions, Mr. Berick. I appreciate the comments made with respect to the funding, and the difficulty of keeping funding for the civilian program, if we commingle civilian and military. It's one of the several questions that is involved in whether or not the two programs should be kept separate or whether, indeed, they ought to be merged.

There are, however, some who urge that there are opportunities for both efficiency and management, and efficiency in cost associated with having a single program, rather than having multiple programs, and I hope we—well, I might ask you if you, yourself, see those as possibilities?

Mr. BERICK. We urged in the last Congress when the legislation was being considered, that we would move the defense waste into the commercial program. We believe that not only are we going to get some cost savings, but more significantly, you're going to demonstrate that the wastes are not going to be handled differently from one another. I think it's an important aspect of this program.

As you know from your experience in your own State, there have been a lot of questions about the management of the defense wastes, and we believe that by combining the programs, the public, and the host States who are going to get the waste in the end, are going to have the confidence that they are going to be managed under an open civilian-type program; that there won't be any questions asked about whether or not there's a double standard.

The CHAIRMAN. Well, as I said to Mr. Rusche, I believe that it is important that there be full public participation, and I would note again, for the record, the terminology that Senator Domenici crafted; and that is, consultation and concurrence.

We had a very difficult time trying to write that concept into law without, at the same time, creating a State veto. And the law that was finally drafted tries to bridge that controversy, and I remain convinced in my own mind that if you give the States a veto, the States will, by political forces, almost inevitably be required to exercise it. We tried to avoid putting that much responsibility on State administrations, to the point where the political forces would be more than they could accommodate.

Do you see that problem in the same light that I do, and a solution in the act in the same way that I've expressed it?

Mr. BERICK. I believe so, Senator. As I said to Senator Domenici a couple of weeks ago in this room, we believe that the Waste Policy Act, in terms of the veto override mechanism, creates the proper balance between the Federal and State interests, between the national and local interests, as it were, in trying to assure that legitimate concerns about the impact a repository might have, and the safety of a repository, are addressed.

Obviously, there's a long road between here and that decision when it comes to Congress. There are a lot of issues that come up, and there are a lot of requirements for interaction between the States and the Department. Some of those relationships have been a little rocky.

As you probably know, the Governor of Utah has just sent a letter to the Secretary, saying thanks, but no thanks, we don't believe that you have been responsive to our requests for information

and for procedures that should be followed, and we are objecting to the procedure to go ahead from a siting point of view, primarily because of the difficulty in those relationships.

So, even though the Waste Policy Act is in place, and those override procedures and consultation procedures are there, it's still going to be a difficult road, and I think it's imperative that the Department recognize how difficult that is; not that they shouldn't abandon their responsibilities. But the Waste Policy Act isn't going to solve all those problems. We're still going to have to sit at the table and work out the nuts and bolts.

The CHAIRMAN. I think that the very notion of consultation and concurrence means extensive consultation and a willingness to meet both the requirement of consultation and the willingness on the part of the State on the other side, not to erect impossible or arbitrary obstructions to concurrence.

But you're certainly correct, writing it in the act doesn't solve the problems. It provides a framework, but it does not guarantee the solutions.

Mr. BERICK. Yes, sir, I would fully agree with that.

The CHAIRMAN. Thank you very much.

Senator Hecht.

Senator HECHT. No questions, sir. Thank you.

The CHAIRMAN. Thank you very much for your statement.

Mr. BERICK. Thank you, sir.

The CHAIRMAN. There are no further witnesses. That will conclude the hearing this morning. The hearing is adjourned.

[Whereupon, at 10:50 a.m., the hearing was adjourned.]

37-366 O—84——4

APPENDIXES

APPENDIX I

Informational Statement of Benard C. Rusche

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Rusche (LAST) Benard (FIRST) Clements (OTHER)

Position to which nominated: Director, Office of Civilian Radioactive Waste Management

Date of nomination:

Date of birth: 2 (DAY) 18 (MONTH) 31 (YEAR)

Place of birth: Yazoo City, Mississippi

Marital status: married

Full name of spouse: Grace Eunice Middleton Rusche

Name and ages of children:

Grace Rusche Killgore	28	
Mark Clements Rusche	26	
Keven Benard Rusche	23	

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Yazoo High School	1937-1949	High School Diploma	1949
Mississippi State Univ.	1949-1950	none	
Holmes Jr. College	1950-1951	Jr. College Certificate	1951
Tennessee Poly Univ.	1951-1953	BS. Physics	1953
Ga. Inst. of Technology	1956-1957	none	

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

SEE ATTACHED SHEET

Employment Record for Benard C. Rusche

Title	Description of Job	Employer	Location	Dates
Physicist	Reactor Physics and Safety Research	E.I. Du Pont	Aiken, SC	1953-58
Sr. Nuclear Engineer	Reactor Design	Lockheed Nuclear Products	Marietta, GA	1958-60
Physicist	Reactor Design	E.I. Du Pont	Aiken, SC	1960-61
Group Leader	Physics Design and Operation	E.I. Du Pont	Aiken, SC	1961-63
Group Leader	Reactor Safety	E.I. Du Pont	Aiken, SC	1964-67
Research Mngr.	Experimental Physics	E.I. Du Pont	Aiken, SC	1967-70
Manager	Environmental Analysis and Planning	E.I. Du Pont	Aiken, SC	1970-71
Section Director	Environmental Sciences	E.I. Du Pont	Aiken, SC	1971-75
Office Director	Nuclear Reactor Regutions	USNRC	Washington, D.C.	1975-77
Director	Corp Health & Safety Office	E.I. Du Pont	Wilmington, Delaware	1977-78
Executive Director	Energy Research and Applications	S.C. Energy Research Inst.	Columbia, SC	1978-81
Special Assistant to the Secretary	Policy and Program Oversight	U.S. DOE	Washington, D.C.	1981-82
Task Group Member	NRC Evaluations for Energy Task Force	President's Private Sector Survey to Control Costs	Washington, D.C.	1982
Vice President	Executive Management Consulting	Management Analysis Co.	San Diego, CA Atlanta, GA	1982-84
Consultant	Nuclear Energy Issues	U.S. DOE	Washington, D.C.	1982-P
President	Technical and Management Consulting	Management and Technical Resources, Inc.	Columbia, SC	1982-P

Employment record—Continued

Military service: Enter all military service if not included above: service, dates, rank, type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Athletic Scholership for football at Mississippi State Univ., Holmes Jr. Collge, Tennessee Poly Univ.
Who's Who Among Students in Colleges & Universities of America
National Honor Society
Kappa Nu Epsilon Honorary Math Fraternity
Award of the Year for Management Achievement, USNRC

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Trustee, Furman University	Chm. Exec. Committee	1968-73, 1973-75
Association of Governing Boards Of Univ. & Colleges	Vice President	1970-75
Summit Club, Columbia, SC		1978-80
Cosmos Club, Columbia, SC		1979-80
American Association for Advancement of Science		1975-80
American Nuclear Society		1960-75, 1982-84
Aiken County School Board	Chairman	1971-75

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

SEE ATTACHED LIST

PUBLICATIONS BENARD C. RUSCHE

Classified publications for the U. S. AEC. (not available)

List of Unclassified Publications:

1. Arnett, LM; Rusche, BC; Randall, D; Taylor, CD; Ross, CF, "Final Hazards Evaluation of the Heavy Water Components Test Reactor", (HWCTR). DP-600, December 1962.

2. Rusche, Ben C., "Operational Physics Data from the HWCTR. Trans. American Nuclear Society 6(Supplement) 13-4 (1963).

3. Arnett, LM; Taylor, CD; Ross, CP; Rusche, BC, "Final Hazards Evaluation of the Heavy Water Components Test Reactor (HWCTR)"- Supplement A - A Maximum Credible Accident. DP-600A, July 1963.

4. Arnett, LM; Rusche, BC, "The Application of Iodine Absorber Units of the HWCTR Containment System." TID-7077, 1964.

5. Rusche, BC, "The Heavy Water Components Test Reactor as a Capsule Irradiation Site." TID-7697, 3.9.1. - 3.9.21, 1964

6. Rusche, BC, "Micrometeorology at the Savannah River Plant. Bull. S. C. Academy of Science, XXIX, 48, 1967.

7. Rusche, BC, "Neutron Cross Sections of the Transplutonium Nuclides. Trans. American Nuclear Society 14(1) 344-5, 1971.

8. Arnett, LM; Taylor, CD, Ross, CP; Rusche, BC, "Final Safety Analysis of the Maximum Credible Accident in the Heavy Water Components Test Reactor. DP-1037, December, 1965.

9. Rusche, BC, Cooper RE, "Site Evaluation Using Measured Meteorology Data. Proceedings of the USAEC Meteorological Information Meeting Held at Chalk River Nuclear Laboratories, September 11-14, 1967, C. A. Mason (Ed), Chalk River Nuclear Laboratories, Atomic Energy of Canada Limited, Chalk River, AECL-2787, 41-50, 1968 CONF-670931-3

10. Cooper, RE; Rusche, BC, "The SRL Meteorological Program and Off-Site Dose Calculations. DP-1163, September 1968.

11. Cooper, RE; Rusche, BC, The SRL Meteorology System. Proceedings of the USAEC Meteorological information Meeting held at Chalk River Nuclear Laboratories, September 11-14, 1967, C. A. Mawson (Ed), Chalk River Nuclear Laboratories, Chalk River, AECL-2787, 51-8, 1968, CONF-670931-2.

12. Berreth, JR; Gregg, RA; Simpson, FB; Rusche, BC, "Total Neutron Cross-Section Measurements on CM-243, -245, and -246." Trans. American Nuclear Society 12(1) 280-1, 1969

13. List, JA; Rusche, BC, "Maintaining Staff Competence at Savannah River Plant," Trans. American Nuclear Society 15(1) 436-7, 1972 DP-MS-72-5. American Nuclear Society Meeting, Las Vegas, June 18-22, 1972

14. Rusche, BC, "AECL Cooperative Program Monthly Progress Report" October, 1967. Progress Reports/ Reactor Theory CC=272 4000. Buckling/Determination/ Exponential Piles/Lattices/Measurement/Multiplication/Factors/ Neutron.

15. Berreth, JR (Aeroject Nuclear Co., Idaho Falls, Idaho); Simpson, FB; Rusche, BC (Nuclear Science Engineer) "Total Neutron Cross Sections of the Curium Isotopes from 0.01 to 30 Ev.", 1972.

16. Rusche, BC, "Neutron Cross Sections of the Transplutonium Nuclides." Trans. American Nuclear Society. 14-No.1, 344-5, June 1971.

17. Rusche, BC, "Realities of Implementing Regulatory Policy." United States Nuclear Regulatory Commission, Washington, D.C.

American Nuclear Society, Inc., Hinsdale, IL, 1976

American Nuclear Society's Topical Meeting
Los Angeles, California, USA, September 13, 1976

Nuclear Power Plants: T1/Planning/Reactor Licensing: T,Q1/US NCR.

18. Anders, WA; Rusche, BC; Stello, V. Jr; Minogue, RB, "Reactor Safety: A Discussion by Officials of the Nuclear Regulatory Commission," U. S. Nuclear Regulatory Commission, Washington, DC, 1976.

SPEECHES DELIVERED BY BENARD C. RUSCHE

1. October 25, 1980, Atlanta, Georgia, The Southeastern Dialogue Conference on the Changing World Economy; Institutional Problems and Public - Private Sector Confrontations.

2. October 9, 1980, Columbia, S. C. , The American Metallurgical Society of AIME Pittsburg, Pa., TMI - A Test of the System

3. October 5, 1980, First Presbyterian Church, Greenville, S. C. Energy Issues - A Vortex of Indecision.

4. July, 1980, London, England, Conservative Energy Committee,. House of Commons.

5. June,1980, TMI - People Pushed into A Corner (Private Circulation).

6. June 2, 1980, New York Atomic Industrial Forum, Regulatory Reform.

7. Potential Uses of Barnwell Nuclear Fuel Plant; Supplementary Statement by Consultant, Ben C. Rusche, IAEL 141-A, April 23, 1980.

8. September 16 - 20, Hilton Head, S. C. Southern Governors' Conference, Energy Projections: Certainty Amidst Uncertainty.

9. September 18, 1979, Washington, D. C. Atomic Industrial Forum Indecision - The Means to an Unfortunate End.

10. November 27 - December 1, 1977, San Francisco, Ca. Atomic Industrial Forum,.Nuclear Reactor Regulations - Some Pluses and Minuses.

SPEECHES DELIVERED BY BENARD C. RUSCHE

1. May 14-15, 1981, Columbus, Ohio, "Dinner Address," at the DOE/AAR Workshop on Nuclear Materials Transportation

2. August 17, 1981, Paris, France, "Recognizing Reality: A New Energy Policy for the United States," at the 6th International Conference on Structural Mechanics in Reactor Technology

3. October 6, 1981, Washington, DC, "The Federal Role in Nuclear Power," at the Atomic Industrial Forum Conference on NEPA and Nuclear Regulation: Operating License Issues

4. October 19, 1981, Chicago, Illinois, "Morning Speech," at the Atomic Industrial Forum Workshop on Reactor Construction and Operation - Revitalizing the Industry

5. October 27, 1981, Columbia, South Carolina, "The Federal Role in Productivity Improvement," at the Productivity Task Force of the Educational Resources Foundation

6. November 9, 1981, Atlanta, Georgia, "Luncheon Speech," at the Southern States Energy Board Workshop on Radioactive Materials Transportation

7. November 10, 1981, Mexico City, Mexico, "U.S. Domestic and International Nuclear Policies," at the International Scientific Forum on Changes in Energy

8. December 1, 1981, Washington, DC, "Nuclear Power - A Role in the Future?" at the Power Supply Symposium '81 Sponsored by the National Rural Utilities Cooperative Finance Corporation

9. December 12, 1981, Clemson, South Carolina, at the National Council of Engineering Examiners New National Headquarters Building Dedication Ceremonies

10. March 24, 1982, Washington, DC, Speech delivered for Ken Davis at the Rotary Club

11. March 26, 1982, Kansas City, Kansas, "Energy Policy During the Reagan Administration," at the Energy Conference '82

12. April 5, 1982, Pueblo, Colorado, "Energy, Ethics, and the Economy: A View From Washington," at the Conference on the University of Southern Colorado on Energy Ethics and the Economy

13. May 11, 1982, Knoxville, Tennessee, "Energy Policy During the Reagan Administration," at the American Engineering Model Society.

14. May 24, 1982, Kansas City, Missouri, "DOE's Thoughts on Reform of the Nuclear Licensing and Regulatory Process," at the Atomic Industrial Forum Licensing Conference

Qualifications: State fully your qualifications to serve in the position to which you have been named.
(attach sheet)

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Personal consulting firm (MTR, Inc.) will be placed in Inactive Status while serving as Director, OCRWM. Totally severed relationship with MAC on March 31, 1984.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

None

3. Has anybody made you a commitment to a job after you leave government?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

None

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

I will maintain health and disability insurance in force through group plan of MTR, Inc. Premium costs will be paid by me personally. Vested interest in DuPont Pension Plan will remain in effect. Payout is dependent only on past service and salary.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

STATEMENT OF QUALIFICATIONS
Benard C. Rusche

Following graduation from the public schools of Yazoo City, Mississippi, in 1949, I obtained a Bachelor of Science degree in Physics from Tennessee Polytechnic University in 1953. Subsequently there followed graduate work in nuclear engineering at Georgia Tech.

My professional career of 21 years with the DuPont Company began in 1953 at the Savannah River Plant of the Atomic Energy Commission. Assignments in experimental physics, reactor safety, and environmental sciences with increasing management responsibility followed over the ensuing 20 years. Most of my early effort focused on reactor design for safe and efficient operation. The latter part of the period was directed to assurance of safety with much more emphasis on assuring protection of the environment.

In 1975, the newly formed Nuclear Regulatory Commission appointed me its first Director of Nuclear Reactor Regulation, in which position I served for 2 years, managing the regulatory program for commercial power reactors.

In 1977, I returned to DuPont corporate headquarters to become DuPont's first Director of Health and Safety, deeply involved in the program to assure that both public and employer were adequately protected in the manufacture, distribution, and use of chemical products made by the Company.

Subsequently I was involved in the formation and management of the private S. C. Energy Research Institute as its Executive Director. The Institute conducted applied research in improving energy utilization and efficiency.

In 1981 Energy Secretary James B. Edwards appointed me his Special Assistant for Policy and Programs in the Department of Energy. In this position I participated in a wide range of policy and programmatic activities in the Department in both the domestic and international arenas.

Since July of 1982, I have been an Executive Management Consultant in the utility industry as a Vice President of Management Analysis Company. In this position I have addressed many of the difficult management issues facing the industry and have worked to find practical solutions.

I formed my own consulting firm, Management and Technical Resources, Inc. in September 1983 to continue the Executive Consulting work on a more personal basis. I have also served as a consultant to Energy Secretary Hodel on nuclear and other energy issues.

I believe my 31 years experience in the nuclear and related industries involving both private and public sectors is a relevant and appropriate background for the position of Director, Office of Civilian Radioactive Waste Management.

Department of Energy
Washington, D.C. 20585

MAY 9 1984

Benard C. Rusche
243 Berwick Road
Columbia, SC 29210

Dear Mr. Rusche:

This letter is intended to serve as a statement from the designated agency ethics official of this Department, as required by question 6 (page 5) of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources in connection with your nomination for the position of Director, Office of Civilian Radioactive Waste Management. I have reviewed your Standard Form 278 (Financial Disclosure Report) dated March 6, 1984, and your Form DOE-460 (Report on Prior Employment) dated March 20, 1984, and have certified that the information contained therein discloses no conflict of interest under applicable laws and regulations.

As a supervisory employee of the Department, you will be prohibited by section 602(a) of the DOE Organization Act (Pub. L. 95-91) from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in section 601(b) of the Act as any entity "significantly engaged in the business" of any of a variety of activities related to energy production, distribution, sale, or research and development, or any entity significantly engaged in such research and development pursuant to a DOE-funded program irrespective of whether it otherwise engages in such business. The term also includes any entity holding an interest in property from which an energy resource is commercially produced or obtained.

Further, section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, you have, or your spouse, minor child, partner, organization in which you are serving as officer, director, trustee, partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment has, a financial interest. Accordingly, you should avoid participation, as a Government

employee, in any particular matter the outcome of which could have a direct and predictable effect on any such financial interest.

With respect to prior employment, sections 606(a) and (b) of the DOE Organization Act state:

(a) For a period of one year after terminating any employment with any energy concern, no supervisory employee shall knowingly participate in any Department proceeding 1/ in which his former employer is substantially, directly, or materially involved, other than in a rulemaking proceeding which has a substantial effect on numerous energy concerns.

(b) For a period of one year after commencing service in the Department, no supervisory employee shall knowingly participate in any Department proceeding for which, within the previous five years, he had direct responsibility, or in which he participated substantially or personally, while in the employment of any energy concern.

These provisions will be applicable to your prior employment by the following energy concerns:

Arkansas Power and Light Co.
Carolina Power and Light Co.
Long Island Lighting Co.
Louisiana Power and Light Co.
Middle South Utilities, Inc.
Mississippi Power and Light Co.
South Carolina Energy Research Institute (SCERI)
Southern California Edison Co.

1/ The term "Department proceeding" is defined in section 1010.103(h) of DOE's Conduct of Employees regulations as "any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest, in which the Department is directly involved."

We are not aware of any Department proceeding in which you were involved within the meaning of section 606(b) while employed by any of the energy concerns listed above. Moreover, since it has been more than one year since you terminated employment with SCERI, the provisions of section 606(a) would not restrict your participation in any Department proceeding involving SCERI. 2/

Please let me know if I can be of further assistance.

Sincerely,

Ralph D. Goldenberg
Assistant General Counsel
for Standards of Conduct

2/ In any event, we understand that SCERI no longer exists.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

4. List and describe any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or for the purpose of affecting the administration and execution of national law or public policy.

None

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

I have discussed potential conflicts of interest with the agency ethics official of DOE and will abide by the guidance contained in the attached letter from the Office of General Counsel-DOE on this subject, dated May 9, 1984.

6. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them.

I intend to comply with all applicable conflict of interest laws and regulations and to abide by guidance contained in the attached letter from the Office of General Counsel-DOE with respect to conflict of interest, dated May 9, 1984.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Vested interest in Pension Plan from Du Pont Co prior employment. $800/month if taken now.

3. Are any assets pledged? (Add schedule.)

None

4. Are you currently a party to any legal action?

None

5. Have you ever declared bankruptcy?

No

6. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

7. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. Minor corrections, always in my favor.

37-366 O—84——5

United States of America
Office of Government Ethics

Office of Personnel Management
Washington, D.C. 20415

MAY 10 1984

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Benard C. Rusche, who has been nominated by President Reagan for the position of Director, Office of Civilian Radioactive Waste Management, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Rusche is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

FINANCIAL DISCLOSURE REPORT

JE

Report (Check Box)
☐ Initial
☒ New Entrant, Nominee, or Candidate
☐ Termination Report

NOTE
All sections must be filled. Enter "None" in areas or attach schedules where applicable.

Agency Use Only	OGE Use Only
Date Received (Month, Day, Year)	
APR 18 1984	APR 25 1984

	Last Name	First Name and Middle Initial	Date of Appointment, Candidacy Election or Nomination (Mo., Day, Yr.)	Termination Date (Month, Day, Year)
Reporting Individual's Name	Ruşche	Benard C.		
Position for Which Filing	Title of Position: Director, Office of Civilian ~~Director~~, Waste Management	Department or Agency (If Applicable): Department of Energy		
Location of Present Office	Address (Number, Street, City, State and Zip Code): 243 Berwick Road, Columbia, South Carolina 29210		Room Number: None	Telephone Number (Include Area Code): 803-781-9683

	Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Blind Trust?
Presidential Nominees Subject to Senate Confirmation	U. S. Senate Energy and Natural Resources	☐ Yes ☒ No

	Title of Position(s) and Date(s) Held
Positions Held With the Federal Government During the Preceding 12 Months (If Same as Above, So State)	Special Government Employee, Office of the Secretary Department of Energy September 1982 - Present

Certification	Signature of Reporting Individual	Date (Month, Day, Yr.)
I certify that the statements I have made on this form and all attached statements are true, complete and correct to the best of my knowledge.	Benard C Ruşche	March 6, 1984

Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official Reviewing Official	Date (Month, Day, Yr.)
The information contained in this report is sufficient to satisfy applicable requirements	Ruşche B. Goldenberg	4/24/84
Office of Government Ethics U.S. Dist.	Signature: David H. Marlow	Date (Month, Day, Yr.) 5-10-84

Comments of Reviewing Official (If additional space is required, use the reverse side of this sheet)

MR. RUSCHE WILL BE GIVEN GUIDANCE TO ENABLE HIM TO COMPLY WITH THE RESTRICTIONS OF SECTION 606 OF THE DOE ORGANIZATION ACT (PUB.L. 95-91) INSOFAR AS THEY MAY RELATE TO HIS PRIOR EMPLOYMENT BY THE ENERGY CONCERNS LISTED AT SCHEDULE D. (NOTE - THE BONNEVILLE POWER ADMINISTRATION IS A COMPONENT OF THE U.S. DEPT. OF ENERGY; IT IS NOT AN "ENERGY CONCERN".) BJ 4/24/84

(Check box if additional sheets are used for Comments)

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(Rev. 5-82)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? ... or "qualified" trust?		

	Yes	No
Are there any other assets in property purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		
If "Yes," do you certify to all of the following: 1. They represent solely your spouse's or dependent child's financial interest or responsibility. 2. They are not, in any way, past or present, derived from your income, assets, or activities. 3. You neither have nor expect to derive any financial or economic benefit from them. 4. You do not have knowledge as to the composition of such interest or liabilities.		

Page Number 3 | Schedule A

Reporting Individual's Name: Rusche, Benard C.

Agency Use Only

Date of Filing (Month, Day, Year): APR 18 1984

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income	Income: Category of Amount or Value	Interests in Property: Valuation of Assets
	Meyers Tulsa Interstate 244 Limited Partnership Seattle, Washington Unimproved land in Tulsa, Oklahoma		X	A — X
	1 Acre Building Lot Connestee Falls, N. C.		X	A — X
	1 Acre Building Lot Lake Murray, S. C.		X	A — X
	2 Acre undeveloped tract Aiken, S. C.		X	A — X
	17 Acre Tract - Columbia, S.C. (West Columbia) Owned by KBR Associates of which B.C. Rusche is 33-1/3% partner. KBR Associates has signed a sales contract with closing scheduled for March 23, 1984.		X	A — X
	Mortgage Loan to G. Ridgley (on behalf of Young Life Christian Group) Aiken, S.C.		X	H — X
	Vested Interest in Pension Plan (ERISA) from prior employment with DuPont Co.		X	A — No specified amount would receive $8.0 per Mo. if I took now.
	Management & Technical Resources, Inc.- Private Firm incorporated in South Carolina B.C. Rusche - 60% of stock; spouse 25%	Dividends 3/24/84	X	A — X
	Management Analysis Company -697 shares common stock		X	A — X

SF 278 - Financial Disclosure Report
(Rev. 6/83)

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number	4	Schedule B

Reporting Individual's Name:
Busche, Bonard C.

Agency Use Only
Date: APR 18 1984

Report Applicable Transactions, Even if Also Reported on Schedule A

S or DC	Identification of Property (real and personal)	Type of Transaction			Date (Month, Day, Year)		Category of Amount or Value ( )					
		Purchase	Sale	Exchange	Purchase	Sale or Exchange	$1,001 to $5,000	$5,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	Not Applicable											

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GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number 5 | Schedule C

Reporting Individual's Name: Rasche, Benard C.

Agency Use Only

Date Received: APR 18 1984

I. Lodging, Transportation, Food and Entertainment.--List each source totaling $250 or more in value

Sor BC	Source (Name and Address)	Brief Description	Value
	Not Applicable		

II. All Other Gifts.--List each source totaling $250 or more in value

Sor BC	Source (Name and Address)	Brief Description	Value
	Not Applicable		

III. Reimbursements.--List each source totaling $250 or more in value

	Source (Name and Address)	Brief Description	Value
	Not Applicable		

Rusche, Benard C.

Agency Use Only
Date APR 18 1984

Page Number 6

LIABILITIES

S or DC	Name and Address of Creditor	Type of Liability, Terms of Repayment, Security Pledged, Date Due, Interest Rate and, if applicable, Item	Value of Amount (X) $1,000 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $1,000,000	Over $1,000,000
	South Carolina National Bank / First National Bank } Columbia, S.C.	Promissory Note from KBR Associates. BCRusche owns 1/3 share (Secured by Mortgage on 17 acre tract). See description Schedule A. Purchased 1981; Terms of loan-Prime +1%; 1-year renewal.		X			

POSITIONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Management Analysis Company	Management and Technical Consulting and service company	Vice President	July 1982	April 1984
Management & Technical Resources, Inc.	Management and Technical Consulting Service	President	September 1983	Present

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE This section is applicable only in the case of nominees and new entrants

Source (Name and Address)	Brief Description of Duties
Management Analysis Company	Vice President; (Clients) Southern California Edison Co. Bonneville Power ~~Authority~~ Administration Long Island Lighting Co. Middle South Utilities, INc. Louisiana Power & Light Co. Mississippi Power & Light Co. Carolina Power & Light Co. ✗ Arkansas Power and Light Co. ✗ Ceased as Management Technical Services, and MAC. BCR 4/10/84

RELATIONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo. and Yr.)
Vested interest in PensionPlan (Erisa) from prior employment with DuPont		Terminated Employment June 1978
Ownership of Management & Technical Resources, Inc.	60% Benard C. Rusche; 25% Spouse	September 1983 - Present
Retained personal insurance (Health, Life, Disability) cost to be borne by B.C. Rusche personally	Benard C. Rusche	
Company inactive during B.C.Rusche's Presidential appointment		

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EXECUTIVE LEVEL POSITION STATEMENT

Position Title: Director, Office of Civilian Radioactive Waste Management

Grade: EL-IV - Presidential Appointee - (PAS)

The Director of the Civilian Waste Management Program is responsible for providing for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, including the development of interim storage capabilities prior to the availability of a repository for permanent disposal, in a manner that fully protects the public health and safety and is in accordance with the Nuclear Waste Policy Act, P. L. 97-425 of 1982. Specific responsibilities in this regard include, but are not limited to, the following:

- Provide overall policy recommendations to the Office of the Secretary relating to the Civilian Radioactive Waste Management Program.
- Ensure that the overall direction and pace of the Program proceed as mandated by P.L. 97-425.
- Provide policy guidance, direction and control to the Associate Directors to ensure that their activities are properly focussed, paced and integrated into the overall Civilian Radioactive Waste Management Program and support fully the mission and objectives of the Department and the policies of the Secretary.
- Provide policy guidance to Field Offices in implementing major decisions beyond the scope of the day-to-day authority of the Associate Directors.

The Director reports to the Secretary who provides very broad policy guidance.

AFFIDAVIT

DISTRICT OF COLUMBIA) ss

Ben C. Rusche , being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Ben C. Rusche

Subscribe and sworn before me this 8th day of May ,19 84

Notary Public

My Commission Expires November 14, 1984

U.S. GOVERNMENT PRINTING OFFICE

APPENDIX II

Responses From Benard C. Rusche to Additional Committee Questions

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Department of Energy
Washington, D.C. 20585

May 22, 1984

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On May 17, 1984, Ben C. Rusche appeared before the Energy and Natural Resources Committee as the Nominee for Director of the Civilian Radioactive Waste Management Office. During the course of the hearing, the Honorable Chic Hecht requested certain information which was to be provided for the record. Enclosed are answers to the questions submitted by Senator Hecht.

In addition to the questions mentioned above, written questions were submitted by Senators Evans, Levin, and Johnston. Enclosed are answers to these questions and copies of the answers have been sent directly to each Senator.

The transcript will be forwarded to you under separate cover just as soon as it is completed.

If you have any questions, please call Diana Diamond or Tom Pretorius of my staff on 252-4277. They will be happy to assist you.

Sincerely,

Robert G. Rabben
Assistant General Counsel
for Legislation

Enclosures

cc: Mr. Al Astrin

Post-Hearing Questions and Answers

Relating to the

May 17, 1984, Confirmation Hearing

of

Ben C. Rusche

Nominee for Director

Office of Civilian Radioactive Waste Management

Department of Energy

Before the

Committee on Energy and Natural Resources

United States Senate

The following questions were submitted
by Senator Hecht

QUESTION: 1. **The State of Nevada is vitally interested in the opportunity to review and comment on the DOE "Site Recommendation Report" prior to its submission to the President. What will be your position on this issue, given the statements by the Acting Director that the States will not be allowed to review this document until after it has been sent to the President?**

ANSWER: I believe that the States and the public should have input to siting decisions made by the Department and full access to documentation used in the recommendation and selection of sites. Such an open process is essential for public confidence in these activities. Section 112 of the Act establishes the procedures for nomination and recommendation of sites. Specifically, Section 112(b)B states

> "Subsequent to such nomination, the Secretary shall recommend to the President three of the nominated sites not later than January 1, 1985, for characterization as candidate sites."

My understanding is that this recommendation will largely be based on the information and data in the environmental assessments used to nominate at least five sites and that no Site Recommendation Report is envisioned. These environmental assessments will undergo full public review. Additional documentation, if any, used by the Secretary in making his recommendation to the President for three sites for characterization should also be available for public review once the decision is made.

QUESTION: 2. **The current draft of the DOE Mission Plan outlines a number of actions, including a two-step licensing application, two shafts during characterization, and other actions ostensibly designed to allow DOE to meet the 1998 date for the first high level waste repository. Given the views from industry that some slippage in this schedule is acceptable, and that many outside DOE view these actions as corner-cutting, would you consider recommending that the deadlines established in the Mission Plan be extended to ensure public confidence in the nuclear waste program?**

ANSWER: As I stated in my appearance before the Committee, I believe it is important to achieve the schedules in the Act, while maintaining a high-quality technical program and responsiveness to the State and public interaction required by the Act. "Corner cutting" at the expense of quality is not acceptable. My objective as Director would be to meet the schedules in the Act while maintaining a high-quality program. At this time, however, I do not believe that any extension in overall program deadlines is necessary.

QUESTION: 3. **What are your views on the co-mingling of defense and commercial high-level wastes, and should defense waste be subject to the same licensing and oversight as commercial waste?**

ANSWER: At the present time, based on information currently available to me, I am not aware of any technical reasons why defense and commercial waste should not be co-mingled. The final decision on co-mingling of defense and high-level waste will be made by the President as specified in Section 8 of the Act. The President's evaluation will be based upon a number of factors including national security, and consequently, it would be inappropriate for me to prejudge this evaluation at this time.

The long-term storage and disposal of defense waste is subject to licensing as provided for in the Act and the Energy Reorganization Act of 1974 (P.L. 93-438) as I commented in the hearing.

QUESTION: 4. Many States have been urging DOE to open and begin releasing information about transportation issues associated with nuclear waste disposal. Will you promise to make this data available to the public as soon as prudently possible so that the States will have an opportunity to plan and respond to this aspect of the nuclear waste progam?

ANSWER: I do plan to make information and data concerning transportation of radioactive waste available to the States. I consider transportation an important, major element in an integrated waste system and will make every effort to ensure full involvement of States. I am aware that several States have requested a transportation computer model used by the DOE to estimate possible routes and frequency of shipments of nuclear waste within the United States. I am advised, however, that this model is not owned by DOE but instead is a commercial program. Consequently, DOE is not able to give this proprietary model to the States. Arrangements are being sought, however, whereby DOE could arrange, under its contract, to have this capability made available to the States. I support this effort and will seek to expedite the availability of the model to the States.

The following questions were submitted
by Senator Evans

QUESTION: 1. If there are unanticipated delays in the development of the first repository, what would be the most reasonable alternative facility that could be utilized?

ANSWER: As expressed in my statement to the Committee, I presently believe an integrated program utilizing both geologic repositories and MRS should be considered as the best way to achieve intermediate and long-term goals. Both MRS and repositories will probably be needed. Should unanticipated delays in the development of the first repository occur, the MRS would be the alternate facility to be utilized.

QUESTION: 2. The State of Washington is now negotiating with DOE on a Consultation and Cooperation Agreement. In your statement, you state that: "I commit myself to active personal involvement on a regular basis," to discussions with States, affected Indian tribes, and other interested parties.

(a) Could you explain in more detail what you envision to be the framework for such negotiations, as well as your general philosophy towards consultation?

ANSWER: 2. (a) With regard to "Consultation and Cooperation" agreements, I believe these can best be negotiated by teams from the DOE, States, and affected tribes over the course of several negotiating sessions. I will meet with State and Indian tribe leaders to resolve any differences which the teams could not resolve. I would also expect that the Governor would want the Congressional delegation to be kept informed.

With regard to my philosophy on consultation, I believe it is essential to not only know the position of another party but to understand why they have taken this position. However, consultation does not always result in agreement and consequently, when accomodation is not reached, it is important for all parties to understand why.

QUESTION: 2. (b) Please list those key issues which, in your view, will be the main points of contention in negotiating C&C agreements with the States.

ANSWER: 2. (b) I believe the Department's negotiations with the State of Washington is indicative of negotiations with other States. Based on this experience, the key issues likely to be in contention in State and Indian tribes C&C agreements will be:

- o Liability
- o Work stoppage rights
- o Comingling of defense waste

QUESTION: 3. Section 8 of the Nuclear Waste Policy Act requires the President to evaluate the possibility of comingling defense and commercial wastes, and submit this report by January 1985. We have a great interest in this study that is being carried out by the Assistant Secretary for Defense Activities, and understand that a draft is almost ready.

(a) Please inform us as to the progress and status of this study and when you expect it to be released to the Committee.

ANSWER: 3. (a) I am not familiar with the details of the study and its status, however, if confirmed, I will provide the Committee with the status of the study and its expected release date. Although the draft study is being prepared by personnel in Defense Programs. I will review and concur in it before it is released.

QUESTION: 3. (b) What are your views on this issue?

ANSWER: 3. (b) At the present time, based on information currently available to me, I am not aware of any technical reasons why defense and commercial waste should not be comingled. The final decision on comingling of defense and high-level waste will be made by the President as specified in Section 8 of the Act. The President's evaluation will be based upon a number of factors including national security, and consequently, it would be inappropriate for me to prejudge this evaluation at this time.

QUESTION: 3. (c) Would you agree to providing a copy of the draft, prior to release, to our State officials so that they could review it?

ANSWER: 3. (c) Yes, I understand the office presently plans to make the draft report available to the States for comment and if confirmed, I will fully support this position.

QUESTION: 4. The adequacy of the 1 mill per KWH fee to fund the repository is based on the projections for commercial nuclear power generation developed by EIA in 1981-82 (U.S. Commercial Nuclear Power, DOE/EIA-0315). For example, this assumes 215 operating plants and 245 GWe by the year 2010. With the large number of cancellations over the past 5-6 years, I think that these projections are overly optimistic.

(a) Do you agree with the projections that EIA/DOE has developed so far?

ANSWER: 4. (a) I am advised the EIA/DOE projections are being revised to indicate the latest status of commercial facilities and give more current information.

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QUESTION: 4. (b) Do you have any plans to modify these projections in the near future to reflect a more realistic assessment?

ANSWER: 4. (b) Based upon these new projections and the projected funding they will generate, a continuing assessment as to their adequacy will be required. Future projections of power plants on line and thus, the revenue expectations, should be based on the latest projections available. I will strive to see that projection basis is kept current and any changes needed made known to the Secretary and Congress promptly, as a part of the required annual review.

The following questions were submitted
by Senator Levin

QUESTION: 1. What assurances can you give us that the nuclear waste fund will not be used to finance reprocessing?

ANSWER: I am not aware of any plan to use the fund for this purpose. The NWPA neither authorizes nor precludes such financing. The choice as to whether reprocessing should be carried out is a decision that should be made by the private sector on the basis of market forces as stated in the President's March 23, 1981, statement on reprocessing. Although there has been extensive discussion of this subject since the 1981 statement, the position remains unchanged. The waste program can and will be capable of disposing of both spent fuel and high-level waste from reprocessing. Therefore, the choice of financing reprocessing lies outside the program.

QUESTION: 2. **What methods might you use to diffuse the imminent prospect of legal actions by States on the environmental assessments?**

ANSWER: I will personally review the environmental assessments (EA's) to assure that they comply with the requirements of the Act. In addition, I will carry out a previous policy decision to hold public hearings on the draft EA's and will also be available tc meet with States and other interested parties regarding the EA's and their role in the site selection process. While I cannot guarantee, of course, that any of this will forestall State legal action, I will make every effort to see that issues faised by the STates are resolved short of litigation.

QUESTION: 3. Do you intend to conduct a personal review of the Mission Plan prior to sending it to Congress?

ANSWER: Yes, I do. I could not assure the Secretary of the acceptability of the Mission Plan without personally reviewing it.

QUESTION: 4. Do you consider the existing Mission Plan as a viable basis for implementing the DOE high-level waste program?

ANSWER: I have read the draft Mission Plan and consider it to be a viable basis of review and discussion with the interested parties. It is, however, essentially a proposal, and I will take into account appropriate comments and include my own views where warranted.

QUESTION: 5. Do you plan to consult with interested constituencies prior to issuance of the Mission Plan?

ANSWER: Yes, I will be both available and will seek to meet with interested parties throughout the development of the final Mission Plan.

QUESTION: 6. Will the Mission Plan be periodically revised? If so, how often? Will revisions be submitted to Congress for review?

ANSWER: Although the Mission Plan, when issued in final, will represent the current best articulation of the program overall review and update would occur from time to time as should be the case with any plan. This should be based on new information or circumstances rather than a predetermined schedule. Revisions would be provided to appropriate committees of Congress for review.

QUESTION: 7. What in your opinion would trigger a decision to request the construction of a monitored retrievable storage facility?

ANSWER: At a minimum, an MRS should be constructed in the event the repository experiences slippages or major technical problems. Beyond this, availability of both an integrated MRS and a repository system may offer other advantages. I will review this potential very carefully in developing both the final Mission Plan and the MRS proposal.

QUESTION: 8. During the prelicensing stage, how do you envision the interaction of DOE and NRC regarding review of DOE activities at prospective sites?

ANSWER: I intend to keep both the Commissioners and NRC staffs fully informed of significant developments and plans. In addition, I intend to accept the Commission's offer to make the staff available for technical consultation during the prelicensing stage. I am advised that on-site NRC representatives are currently in place at the DOE Project Offices and I fully support this action.

QUESTION: 9. Do you see any need to revise the High Level Waste Policy Act?

ANSWER: No, I believe the Act provides a carefully crafted and balanced framework for the management of commercial radioactive waste and revisions to the Act are neither necessary or desirable at the present time.

QUESTION: 10. Do you feel the 1 mill per kilowatt hour fee is adequate to fund the program as described in the Mission Plan?

ANSWER: Although the draft Mission Plan states that the reference program presented has not been costed out in detail (nor can it be with great precision 15 years in advance) and other factors such as inflation cannot be predicted accurately, my objective as Director is to conduct the overall program in a cost-efficient manner such that the revenues provided by the 1 mill fee would be adequate over the course of the program.

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QUESTION: 11. What views do you have on some agency other than DOE carrying out the high level waste program?

ANSWER: I have an open mind on this very fundamental issue. There are, of course, both advantages and disadvantages to operating as a part of an established agency like DOE, but there are also advantages and disadvantages of any alternatives as well Secretary Hodel has appointed an advisory panel to assess practical alternatives and their report is due in October. I will withhold final judgment until I have reviewed the panel's report and discussed their findings with the Secretary, and others as required.

The following questions were submitted
by Senator Johnston

QUESTION: 1. A Please provide the Committee with a copy of these procedures and discussion of how they are intended to work.

ANSWER: "Upon confirmation and taking of office, I will implement a procedure concurred in by DOE's OGC to assure that I am not involved with any of the six companies for the prohibited period required by law, except for a rulemaking proceeding which has a substantial effect on nuclear energy concerns. I will delegate my responsibilities with respect to these six companies to the Deputy Director of the Office and will institute screening procedures for oral and written communications with the subject companies to assure that I am not involved. The six companies are:

Energy Concerns	END of Prohibited Period
Arkansas Power & Light	3/1/85
Mississippi Power & Light	4/17/85
Louisiana Power and Light Co.	3/16/85
Middle South Utilities	3/7/85
Long Island Lighting Co.	9/30/84
Southern California Edison	7/22/84

The delegation continues through the prohibited period as shown for each Company, after which date the prohibitions are no longer in effect.

QUESTION: 1. B **Please identify any specific matters with which the Office is concerned that could potentially involve application of these procedures.**

ANSWER: **Decisions made by the Director of OCRWM could affect,** or appear to affect, individual utilities in the following circumstances and these procedures will apply:

1. In processing changes to or new signatories for the "Standard Contract for disposal of Spent Nuclear Fuel and/or High Level Radioactive Waste."
2. In making decisions under the standard Disposal Contract where the Department has discretion in accepting or rejecting requests for special treatment by a utility, such as:
   (a) Negotiating credits of additional charges for conditions peculiar to an individual utility.
   (b) Negotiating conditions for acceptance of "non-standard" spent nuclear fuel.
   (c) Negotiating special delivery provisions (not covered by the Waste Acceptance Schedule) in extraordinary circumstances.
3. In establishing contracts or other agreements with individual utilities for activities such as spent fuel research and developmental activities.

QUESTION: 2. A When will these questions be answered?

ANSWER: I am advised that all but two of the questions have been answered and forwarded to your office. Those remaining questions are being worked on by the DOE General Counsel and should be forwarded within one week.

QUESTION: 2. B Do you believe that the Department has such a legal obligation? Why or why not?

ANSWER: Lacking legal training, I must defer to the legal opinions of the Department. However, I believe, based on my reading of the Act, that the Department has an obligation to begin accepting waste or spent fuel for disposal by January 31, 1998, in accordance with the waste acceptance schedule in its contracts with utilities.

QUESTION: 2. C Are the contracts DOE has with utilities to begin acceptance of spent fuel enforceable if no repository is in operation? Why or why not?

ANSWER: Although I am not familiar with the details of the contracts, I believe that the contracts create an obligation to accept fuel or high-level waste without a repository in operation, but am uncertain as to legal enforceability under the Act.

QUESTION: 2. D Explain how this would work, who would have title to the fuel, how such storage would be licensed, and how such a program would relate to the authority contained in the NWPA.?

ANSWER: As stated earlier, I do believe that the Department has an obligation to begin accepting waste or spent fuel for disposal by January 31, 1998, whether or not a repository is in operation. I support the Department's intentions, as stated in the draft Mission Plan, to accept waste as spent fuel even even if a repository is delayed. This will be accomplished through a program involving repositories and MRS facilities, both being licensed by NRC and sited under the procedures in the NWPA. I believe this approach is consistent with and meets the objectives of the NWPA.

QUESTION: 3. A Provide the Committee with your own views about this draft.

ANSWER: As expressed in my statement to the Committee, I presently believe an integrated program utilizing both geologic repositories and MRS should be considered as the best way to achieve intermediate and long-term goals. Both MRS and repositories will probably be needed. This differs from my understanding of the draft Mission Plan which looks to MRS facilities only in the event of a substantial delay in the repository. Nevertheless, if confirmed, I will closely review the comments received on this particular aspect of the draft Mission Plan and make appropriate changes.

QUESTION: 3. B What considerations do you think are important in deciding to move forward with construction of an MRS facility? Please indicate which considerations are the most important and discuss the timing of this decision.

ANSWER: The MRS and repository should be integrated into the waste management system if this would result in greater overall efficiency, safety, economy and/or predictability. These considerations must be considered together to provide a balance of cost and benefits. In order to be effective, integration of the MRS and repository must be achieved in the next several years, and I believe the June 1985 MRS proposal to Congress is an appropriate and timely means of doing this.

QUESTION: 3. C Do you believe that the two MRS conceptual designs (open field dry well and above-ground storage cask) being used by DOE at present will be acceptable and credible to the public as waste management technologies should we decide to rely on MRS to store significant amounts of spent fuel and waste for long periods of time? Why or why not?

ANSWER: Yes, they should be both acceptable and credible from a technical standpoint. Both technologies are proven and have been used at the DOE's Nevada Test Site for several years. Taking into account non-technical factors, other augmented concepts may be more suitable for an integrated system. I will ensure that the MRS proposal to Congress is consistent with an integrated waste systems approach.

QUESTION: 4. A How will your job change if a decision is made to comingle civilian and defense nuclear wastes in facilities under the Office?

ANSWER: I don't see a great change in my job should the President make a decision to comingle the civilian and defense wastes. I believe that, based on the information currently available to me at this time, the impact on the technical aspects of the program will be minimal inasmuch as the OCRWM is working with Defense Programs in early planning on cost, schedule, size and the need for NRC licensing. Under a comingled program, the DOE defense program would have to pay its fair share of the full cost and all material would have to meet NRC licensing requirements, so the overall effect should be small.

QUESTION: 4. B Would there be any special exceptions or requirements applicable to a system involving comingled waste that wouldn't apply in the case of a civilian-only system? Explain.

ANSWER: There should be no special exceptions involving commingling of waste because the defense waste will be required to meet NRC licensing standards as is required of civilian waste.

QUESTION: 5. A What are your plans for reviewing the recently released DOE draft Mission Plan before publication of a final plan? Will you meet personally with representatives of the States and tribes on the Plan?

ANSWER: My understanding of the Mission Plan schedule is that the Plan is presently being reviewed and comments are due to DOE by July 9, 1984. Upon receiving the comments from States, affected Indian tribes, interested citizens, I will review them and where possible, integrate them as well as my own views into the Plan. The Department will indicate what actions were taken with the comments, and where not used in the plan, explain why. As I indicated at the hearing, I will be available to meet with the States and affected Indian tribes in any areas including the Mission Plan.

QUESTION: 6. A Based on my DOE experience in the field and in Headquarters, decentralized arrangement between the DOE Headquarters and the field offices is an effective approach for implementing a program of the magnitude and duration contemplated under the NWPA?

ANSWER: Based on my DOE experience in the field and in Headquarters, I have first-hand experience that decentralized management by field offices is an effective way to manage projects. Once specific projects are clearly defined in the waste program, I believe this system will be efficient and workable. Currently, however, many of the activities in the Program are concerned with centralized Headquarters responsibilities such as program planning (e.g., the Mission Plan) and definition of projects (e.g., by site selection). Thus, a more integrated or centralized effort carried out by Headquarters is appropriate for this decisionmaking, policy-setting process. It is important that the effort appropriately involve the field, but cohesion and consistency are especially important during these early years.

Later on, as the projects become defined and move into implementation, the decentralized approach as typified by the current operational activities of the Department in other programs, will be likely more effective.

QUESTION: 6. B Do you feel that the Director has sufficient management control over the DOE personnel in the field that are assigned to NWPA-related activities? What steps are you considering to strengthen the control of the Director over the NWPA activities in the field?

ANSWER: I cannot say at this time if the Director has sufficient control. I believe a program of this size and sensitivity requires frequent communication between Headquarters and the field at all levels of the program. In addition, close management control of both costs and schedule is necessary to meet our fiduciary and technical responsibilities. If confirmed, I will take steps to ensure these are done and if sufficient control is not available, I will move to put such control in place.

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QUESTION: 6. C In addition to its dependency on the field offices, under the present arrangement, the Office is dependent on DOE Headquarters staff offices such as intergovernmental relations and the general counsel. Do you feel this situation is satisfactory or do you believe that the Office should upgrade its capability in these areas? How?

ANSWER: Based upon my past experience at DOE, many successful programs have been conducted which have been dependent on DOE staff offices. I see no reason why such a situation would be unsatisfactory for the waste program. However, I should withhold judgment on the need to upgrade the Office's capability in these areas until I gain firsthand knowledge of the current situation. In many cases in the past, access to these offices in DOE by other programs has provided strong support on an intermittent basis. Therefore, a balance between continuous in-house (within the program) capability and intermittent specialized support externally is probably best. Effective coordinated functioning in these areas will be one of my early management reviews and I shall withhold judgment as to whether changes are needed until I have conducted the review.

QUESTION: 6. D In addition to the decentralized DOE Headquarters/field office arrangement, the current organization arrangement for the DOE Headquarters office is a matrix organization. There are no clear lines of authority or responsibility. There are no strong project managers to oversee the implementation of the program and related projects. What do you intend to do to establish clear lines of authority and responsibility within the Office?

ANSWER: The current Office organization is primarily project oriented along repository, storage and systems integration lines. Although I am currently considering organizational options which may better fit my management style, no major reorganizations are planned in the immediate future. I am considering adding several new personnel in key management positions to compliment the existing staff, plus making several functional realignments. Taken together, these should strengthen the office and improve lines of responsibility in addition to strengthening Headquarters control. Note my answer to question 6A concerning the decision emphasis now with projects to be emphasized down the road.

QUESTION: 6. E Some have expressed concern over the multiplicity of contractors involved in the NWPA program and an alleged lack of contract incentives to meet schedules and budgets. Please examine the need for contractors under this program and the contract terms so as to increase productivity and efficiency and report to the Committee on your findings.

ANSWER: If confirmed, I will examine contracts to ensure they provide incentives for program performance. Schedules and accountability are important and this should be reflected in our contracts. I will keep the Committee apprised of this through routine, informal information updates, unless major steps are needed.

QUESTION: 7. A Some have suggested that the DOE is overemphasizing procedural requirements of the NWPA at the expense of the schedule requirements. How important do you believe it is to meet each of the schedule milestones mandated by the NWPA?

ANSWER: As indicated at my hearing, if confirmed, I am committed to meeting the mandated schedules of the Act. However, the schedule should not be used as a lever to give short shrift to State, tribal or citizen concerns. A balanced program of schedule, procedural requirements and technical requirements must be carried out, all characterized by quality and confidence.

QUESTION: 7. B The DOE has not established a Project Decision Schedule and has not filed a report to Congress on the delay in meeting the mandated date of March 31, 1987, for the President to select a repository site for construction.

ANSWER: I am advised that the Project Decision Schedule will be prepared by the program office upon completion of the Mission Plan and will be based upon the Mission Plan.

QUESTION: 7. C As Director, do you intend to fully comply with Section 114(e)? When do you intend to establish a Project Decision Schedule?

ANSWER: If confirmed, I fully intend to comply with all requirements of the Act which includes preparing a Project Decision Schedule upon issuance of the Mission Plan.

QUESTION: 8. A **The Reagan Administration is publicly committed to restoring the reprocessing option in this country. At this point, the principal beneficiary of reprocessing would be the DOE, with its responsibility for spent fuel disposal. Do you believe that current DOE attitudes towards the role of reprocessing in the waste program adequately reflects the Administration's commitment?**

ANSWER: The Act requires DOE to accept either spent fuel or liquid high-level waste from reprocessing for disposal. DOE's current emphasis on spent fuel appears appropriate since no firm proposals for commercial reprocessing exist. The draft Mission Plan indicates that the DOE plans to have the capability to dispose of either spent fuel or waste from reprocessing. Plus, the draft Mission Plan also indicates DOE would provide solidification capability for liquid reprocessing waste in accordance with the provisions in the Act. I believe this meets both the requirements in the Act and the Administration's position on reprocessing.

QUESTION: 8. B As you know, a ten-fold reduction in high-level waste volume is achieved through reprocessing. Furthermore, reprocessed high-level waste decays much faster than spent fuel. In light of these facts, do you think DOE has adequately considered the advantages of storing reprocessed high-level waste instead of spent fuel?

ANSWER: The ten-fold volume reduction and faster decay rate for high-level waste over spent fuel are true for very specific circumstances. The important issue is assuring that both forms can be safely disposed of in the planned facilities. I believe that the safe disposal of spent fuel and high-level waste is technically feasible and that the current DOE program appropriately provides for this. Although there are advantages to disposing of solidified high-level waste from reprocessing, the need for reprocessing for waste consolidation and resource recovery need to be based on the marketplace rather than waste disposal issues.

QUESTION: 8 C. Do you agree with this Administration's apparent commitment to the "once through" fuel cycle?

ANSWER: I do not believe the Administration is committed to a "once through" fuel cycle. Reprocessing is a utility and industry decision. Although I personally believe reprocessing should occur, I also believe utilities and industry should make this decision based upon economics and efficient fuel utilization considerations.

QUESTION: 8 D. Do you agree that the industry has no incentive to considering reprocessing under the nuclear waste management program as now conceived?

ANSWER: 8 D. I agree that the nuclear waste program provides little incentive for reprocessing because planned programs will safely dispose of either spent fuel or high-level waste. The incentives for reprocessing, I believe, are primarily economic and should rise from other areas. See my comment on question 8B.

QUESTION: 8 E. As Director of the nuclear waste management program, would you be willing to reassess the potential role of reprocessing in the program?

ANSWER: Yes, so long as the role is in conformance with the Act and to the extent that reprocessing could enhance the overall efficiency, economics or safety of the waste management system.

QUESTION: 8 F. As you know, the DOE is now financing the construction of a glassification facility for reprocessed wastes at Savannah River. Do you think the Department should consider the storage of these wastes with commercial glassified waste given the substantial cost savings involved?

ANSWER: My answers to questions 4A and 4B suggest that defense waste and commercial can be comingled with minimal impact. A final judgment must await the current study in process and the President's subsequent decision as required by Section 8.

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